United Nations A/C.6/62/SR.2

General Assembly
Sixty-second session

Official Records

Distr.: General
5 November 2007

Original: English

Sixth Committee

Summary record of the 2nd meeting
Held at Headquarters, New York, on Monday, 8 October 2007, at 3 p.m.

Chairman: Mr. Tulbure .... (Moldova)

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The meeting was called to order at 3.05 p.m.

Agenda item 137: Administration of justice at the United Nations (A/62/179, A/62/294 and A/62/311)

1. **Mr. Kemp** (Australia), speaking on behalf of the CANZ group of countries (Canada, Australia and New Zealand), said that the staff members of the United Nations were entitled to a fair and efficient system of internal justice that was consistent with the relevant rules of international law and with the principles of the rule of law and due process. Since the Organization should lead by example in that respect, CANZ attached great importance to the implementation of General Assembly resolution 61/261 on the administration of justice at the United Nations, with a view to establishing a new, independent, transparent and professionalized system in which staff, management and Member States could have confidence.

2. Since the proposed implementation deadline of January 2009 was fast approaching, it was incumbent on the Committee to review again the various legal aspects of the proposals, in particular the draft element of the statutes of the tribunals and to offer guidance to colleagues in the Fifth Committee when they addressed the question of providing an adequate funding and staffing base for the new internal justice system, in order to ensure that it was legally sound and met the required standards of justice and due process.

3. He looked forward to discussing access to legal representation so as to secure equality of arms for all parties and to finding means of allowing all parties to receive a fair hearing before the United Nations Dispute Tribunal and the United Nations Appeals Tribunal. Since it was necessary to make sure that the process for selecting judges was appropriate to the unique context of the United Nations, where the Organization's rules and standards had to be applied to staff members in various locations, CANZ supported the proposal that an Internal Justice Council of eminent persons should identify a list of eligible candidates for appointment to judicial positions in the tribunals and that the Secretary-General and the General Assembly should then appoint the judges from that list.

4. **Mr. Madureira** (Portugal), speaking on behalf of the European Union; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey, the stabilization and association process countries and potential candidates Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Armenia, Azerbaijan, Georgia, Iceland, Moldova, Norway and Ukraine, said that it was essential that the new system of internal justice should enjoy the full confidence of both staff and management and should be appropriate for an organization known for its work in setting, promoting and developing international norms in the field of human rights and the rule of law. For that reason, the European Union was committed to achieving the goals set out in General Assembly resolution 61/261 in order to arrive at a system able to deliver timely, effective and fair justice.

5. The complexity of the task ahead required close collaboration between the Fifth and Sixth Committees, with the Sixth Committee focusing on the requisite legal components of the new system, especially the draft statutes of the new United Nations Dispute Tribunal and United Nations Appeals Tribunal, so as to enable Fifth Committee to decide on the corresponding financial and administrative arrangements.

6. The formal system was, however, only part of the new structure; other key elements included improved legal assistance for staff, a decentralized informal system to avoid unnecessary litigation, new management evaluation mechanisms to increase the rates of dispute resolution at a relatively early stage and the question of registries.

7. The introduction of a new system for the administration of justice meeting the requirements of a modern organization which respected the rights of its staff while at the same time ensuring that they fulfilled their obligations would represent a milestone in the Organization's history. The European Union would therefore spare no effort in working to build a fair, strong and efficient system for the administration of justice at the United Nations in the twenty-first century.

8. **Mr. Barriga** (Liechtenstein) said that reforming the administration of justice at the United Nations was not a mere technical exercise, but was central to comprehensive efforts to equip the Organization with the tools it needed to confront growing challenges. Such a reform had been long overdue and was vital in order to ensure the fair and just treatment of United Nations staff, to improve staff morale, to enhance accountability and to improve the Organization's overall performance. His Government was fully committed to the reform process initiated by the

General Assembly's decision to establish a new, independent, transparent, decentralized system for the administration of justice which was professionalized and adequately resourced.

9. The decision to implement the new system by January 2009 was welcome. If that ambitious timeline was to be kept, the Sixth Committee must again focus its attention on the legal issues involved and see to it that the new system would be fully consistent not only with the relevant rules of international law, but also with the principles of the rule of law and due process. The scope of the new system was a major concern in that respect, and he agreed with the Secretary-General's recommendation that the certain non-staff personnel should be able to avail themselves of effective means of dispute resolution, since in many United Nations offices persons with very different contracts were working side by side over long periods of time. Those who enjoyed less favourable contractual terms should not be further punished by being denied access to a proper justice system. Those and other issues, such as the election of judges, the draft statutes and legal assistance required further discussion in the Working Group on the administration of justice at the United Nations.

10. **Mr. Bichet** (Switzerland) said that as a host country Switzerland attached particular importance to implementation of a new system of administration of justice that was independent, transparent, professional, adequately resourced and centralized. In order to achieve the goal of making that system operational by 1 January 2009, the Fifth and Sixth Committees should focus on those aspects of the reform which lay within their respective areas of competence and should hold joint meetings in order to remain informed of the positions taken within the two Committees and to resolve any differences of opinion that might arise.

11. In particular, the Committee should focus on the development of a formal system and on the links between the formal and informal systems and between the formal system, disciplinary procedures and management evaluation. It should pay particular attention to the Secretary-General's proposals regarding the statutes of the Dispute Tribunal and the Appeals Tribunal and should decide on the modalities for appointing and dismissing judges and on the number of judges of first and appellate instance that would be required in order to ensure that cases were examined fairly and objectively.

12. His delegation attached great importance to ensuring that the procedure for the nomination and removal of judges guaranteed their independence. It supported the establishment of an Internal Justice Council responsible for compiling lists of persons eligible for appointment as judges of first and appellate instance and the proposal that judges should be removable only by the General Assembly; consequently, the Assembly should be authorized to appoint all judges, not only those of the Appeals Tribunal as suggested by the Secretary-General.

13. The number of judges appointed should be large enough to ensure the objectivity of decisions; however, if decisions on appeal were reached in a collegial manner, it was not essential that three judges should preside over each case at first instance. One solution would be to provide for a preliminary examination by three judges at first instance, after which they would be authorized to decide, by common accord, to delegate the case to one of them.

14. The introduction of a new system of administration of justice provided an opportunity to ensure that all persons working for the United Nations, regardless of their status, could be heard by an independent body if they considered that their rights or the rules of the Organization had not been respected. In light of the immunity of jurisdiction that the United Nations enjoyed in Member States, it was essential to ensure that if certain categories of staff, such as interns or volunteers, were to be excluded from that system there must be clear, objective reasons for their exclusion, and other effective channels of appeal must be available to them.

15. Comments made during mediation could not be used subsequently in the formal procedure without weakening the informal system; the confidentiality of discussions within the informal system must be guaranteed.

16. Lastly, his delegation did not object to management evaluation of contested decisions prior to their consideration by the formal system. However, in order to prevent such evaluations from excessively limiting recourse to the formal system, they must be conducted within the 45-day limit proposed by the Secretary-General, after which the possibility of recourse to the formal system must be open.

17. **Ms. Negm** (Egypt) said that her delegation was in favour of a mediation process that would preclude

recourse to the costly formal justice system, reduce the number of cases before the Dispute Tribunal and promote the settlement of disputes between staff members and their supervisors before the situation deteriorated, while taking into account the need to protect staff members from retaliation if they sought help from the Office of the Ombudsman.

18. It was also important to reform the formal justice system. The Committee should determine the scope of jurisdiction under the new system; in light of the fact that only 15 per cent of those working for the United Nations held permanent contracts, her delegation was concerned at the proposal to exclude individual non-staff contractors. The Committee should also consider ways of providing staff members with better legal assistance, thereby reducing the frequency of recourse to the costly judicial process, and should establish rules for an impartial administrative review system that would make it possible to rectify improper administrative decisions before proceeding to the tribunals. It should establish a time frame that would ensure completion of the administrative review process within 30 days at Headquarters and 45 days at other duty stations; reasonable time frames should also be established for mediation and for implementation of binding decisions to which both parties had agreed.

19. Affected parties should have the right to request the Dispute Tribunal to issue an injunctive order enforcing the implementation of a mediation agreement in the event of non-compliance by a party thereto. The Committee should also establish a method of selecting judges for the two tiers of litigation and determine their numbers and mandate. Her delegation endorsed the Redesign Panel's approach, which envisaged one registrar for the two tiers who would be considered the administrative supervisor of all registry offices in the tribunals' headquarters worldwide; there should be no conflict of interest in having one registrar assume both responsibilities.

20. There was no need for the old system of administration of justice to continue to function until all cases before it had been cleared; those cases could be transferred to the new system as soon as its tribunals were established and functioning. Lastly, the Committee should study the draft statutes of the tribunals and determine the competence of the chambers and the registrar; the responsibility of establishing and recommending the rules of procedure might be entrusted to the judges, subject to approval by the General Assembly.

21. **Mr. Sandoval** (Colombia) said that, in the Committee's discussion of the agenda item during the previous session of the General Assembly, it had failed to reach a clear decision on the scope of its action and the objectives to be achieved. Despite its administrative and financial implications, the administration of justice was essentially a legal matter, and the Sixth Committee should be responsible for developing an affordable, equitable, transparent and efficient system that would protect the rights of United Nations staff and guarantee due process, a key element of the rule of law.

22. Due protection of the rights of staff members was at the heart of the United Nations justice system reform. His delegation agreed that the system should include formal and informal components on the understanding that, under public and private international law, mediated outcomes were as legally binding as court decisions. The use of the terms "formal" and "informal" to describe the two systems was inappropriate; they should be described as "judicial" and "extrajudicial".

23. His delegation supported the idea of a two-tiered system of formal justice. However, such a system did not necessarily require two independent tribunals. Instead, following international practice, there should be a single tribunal composed of a decentralized trial chamber (first instance), in order to ensure access by all staff members, and an appeals chamber (second instance). That proposal had several advantages: whereas two tribunals would require a separate statute and rules of procedure for each, potentially giving rise to conflicting interpretations, a single tribunal would have one statute and set of rules of procedure that would be applicable to both chambers, thereby avoiding conflicts of interpretation or application. Since the tribunal would be a single administrative entity with a President, a Vice-President and a registry, its legal and administrative functions would be streamlined and costs would be reduced.

24. **Mr. Romero-Martínez** (Honduras) announced that the International Court of Justice had just delivered its judgment in the case concerning the *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea*. The Presidents of those States were in the process of ratifying their

compulsory acceptance of the judgment, which marked a victory for Central America and for all States that believed in the rule of law and the peaceful settlement of international disputes.

25. His delegation recognized that a transparent, impartial and effective system of administration of justice was a necessary condition for ensuring the fair and just treatment of United Nations staff and that the Organization had a particular obligation to offer its own staff a system of justice that fully complied with international human rights standards and delivered timely, effective and fair justice. He was certain that on the basis of the reports provided and with firm political will and appropriate concern for justice, the Committee would be able to clarify the legal norms required for the development of such a system.

26. **Ms. Rodríguez-Pineda** (Guatemala) said that as the legal body of the General Assembly the Committee should make comments and suggestions regarding legal aspects of the reform of the system of administration of justice at the United Nations. During the present session, it should focus on the draft elements of the statutes of the dispute and appeals tribunals, contained in annex to the report of the Secretary-General (A/62/294), in order to determine whether additional information was needed and to take the work of the Fifth Committee into account. The Secretariat could then prepare a second, more detailed, set of draft elements that could be used as a basis for discussion at the Committee's resumed session in the spring of 2008.

27. Some of the draft elements contained administrative proposals with significant financial implications that the Fifth Committee would need to consider, without prejudice to the Sixth Committee's comments and recommendations thereon. Those proposals concerned the structure of the Dispute Tribunal and its registries; the scope of the tribunal's jurisdiction; the judges' competence to award compensation, in light of the proposal to raise the current limit of two years' salary; and transitional measures.

28. With respect to the informal system, the Committee should consider the mandate of the proposed integrated and decentralized Office of the Ombudsman and the proposed mediation division. As stated in the report of the Secretary-General (A/62/294, para. 52), those proposals were being considered by the Contact Group on the Administration of Justice, after which further proposals from the Secretariat would be forthcoming. He urged the existing offices of Ombudsmen to continue their efforts to harmonize their practice in preparation for the creation of regional offices.

29. Although General Assembly resolution 61/261 (para. 32 (g)) requested the Secretary-General to report on arrangements for the members of the United Nations Administrative Tribunal whose terms of office were affected by the implementation of the new system, the Secretary-General, in his report, simply stated the dates on which the current Tribunal members' terms ended. Moreover, new members were scheduled to be elected for four-year terms, pursuant to the current Statute of the Tribunal, on 2 November 2007, but it was her delegation's understanding that the terms of those new members would be subject to the deadline of January 2009, by which time the new system of administration of justice was to be implemented, and to whatever transitional measures were put in place.

30. Her delegation endorsed the proposed qualifications to be required of judges. However, the methods used to select members of the formal and informal systems, and especially the judges, should be discussed by the Fifth Committee, since the Ombudsman was appointed by the Secretary-General.

31. Lastly, since the question of disciplinary measures was complex, delegations would benefit from a briefing on the differences between the existing and the proposed systems.

32. **Mr. Álvarez** (Uruguay) said that the Committee needed to deal with agenda item 137 expeditiously and effectively, but the virtually simultaneous consideration of the item by the Sixth and Fifth Committees had caused some difficulties. Each Committee should articulate its conclusions on the item within its respective sphere of competence. Based on those conclusions and on the functions and powers assigned to the components of the new system of justice, appropriate administrative and budgetary measures should be implemented to enable the new institutions to fulfil their functions. It was inappropriate, for example, for reports of administrative-budgetary bodies, following a first reading of the reports of the Secretary-General, to put forward timetables within which the informal stage of proceedings was to be

completed, or to offer criteria for constituting the formal system, even while recommending that the Sixth Committee's views on these matters should be sought.

33. The Sixth Committee should be responsible for determining the purely legal features of the new system, including, inter alia, the procedural aspects of the informal system of dispute resolution; the characteristics of the formal system, including the structure of the first and appellate instances and the number and manner of selection of judges; modalities of transition from the old to the new system; and links between the system and other analogous systems of international organizations, especially that of the International Labour Organization. Consultations should aim at achieving points of consensus enabling the Committee to reach decisions, bearing in mind the points of agreement presented to the President of the General Assembly on 23 March 2007 (A/C.5/61/21, annex).

34. His delegation could agree to strengthening informal procedures, especially mediation, with a central role to be played by the Office of the Ombudsman acting as a mediator. That would be all the more desirable in the light of the misgivings his delegation entertained about the apparent concentration of the proposed machinery of justice in New York. The personnel of the regional commissions, peacekeeping missions and field offices should have access to specific decentralized options. His delegation would elaborate on the foregoing, and on the establishment of an effective system of legal counsel for staff, when those issues were addressed by the Fifth Committee.

35. Another key aspect was the selection of judges. It was vital that judges in a position to rule on conflicts arising in the workplace should have the highest legal qualifications and enjoy complete independence. That would probably not be the case if the proposals presented by the Redesign Panel in paragraphs 173 and 174 of its report (A/61/205) were implemented, and his delegation echoed the concern expressed by the Advisory Committee on Administrative and Budgetary Questions in its preliminary report (A/61/815) about the proposal to establish an Internal Justice Council entrusted with monitoring the system and with compiling lists of candidates for appointment as judges. The Secretariat would thus have great influence in the selection of judges for the proposed Dispute Tribunal and a degree of influence upon the lists of judges to be presented to the General Assembly to constitute the Appeals Tribunal. At least for the latter, judges should be selected by the General Assembly directly, without lists that might limit submission of candidates. Candidates should meet the requirements to become judges in their countries of origin. Election by the Assembly provided assurances of legitimacy, transparency, objectivity and absence of conflicts of interest among candidates for appointment as judges.

36. His delegation did not oppose considering the proposal to combine the two forums in a single tribunal and discussing its possible advantages, although it was inclined to favour a two-tier tribunal. Such a discussion would enrich the debate and contribute to seeking a system of administration of justice that addressed the shortcomings of the current one.

37. **Mr. Medrek** (Morocco) said the United Nations, by virtue of its mission, took the lead in establishing a world order based on the rule of law, essential to lasting peace, justice and prosperity. Clearly, the Organization's own internal functioning must therefore be governed by the rule of law. However, its system of justice was in some respects outmoded, dysfunctional and costly, its fundamental shortcomings arising essentially from structural flaws. Reform should be embraced, not imposed, and should emanate from the Administration and staff of the Organization in order to achieve its goals and lead to a change of behaviour and a renewed sense of confidence and accountability among the staff.

38. Morocco therefore welcomed General Assembly resolution A/61/216, by which the Assembly had decided to institute a new, decentralized, independent, transparent and professionalized system of justice endowed with sufficient resources and consistent with relevant rules of international law and recognized principles of the rule of law and due process.

39. Morocco welcomed the Secretary-General's report (A/62/294), which attempted to respond to queries and concerns of Member States and to provide the key features of a new system of justice, notably with regard to nomination and selection of judges, draft elements of tribunal statutes, disciplinary procedures, management evaluation and legal assistance for staff.

40. Morocco generally favoured a unified system and supported the two-tier system proposed by the Redesign Panel and endorsed by the Secretary-General with a view to securing the rights of staff and ensuring

effective accountability. It supported the establishment of an Office of Staff Legal Assistance, an integrated Office of the Ombudsman for the Secretariat and the funds and programmes, together with regional Ombudsman offices at certain duty stations to ensure equitable access geographically, and a Mediation Division within the Office of the Ombudsman. Mediation was an important component of any informal system of administration of justice, and the procedure should include safeguards of confidentiality.

41. The Secretary-General's proposals with regard to the scope of the new system were sound. It was incumbent on the Organization to ensure that persons performing work, regardless of the type of contract, should have recourse to means of settling disputes. The informal system was a key element, and important from an ethical standpoint. An effective system for settling disputes informally and promptly strengthened cohesion in the workplace and avoided needless litigation.

42. The success of the informal system was linked to reform of the formal system. Morocco favoured a two-tier system in which the first instance would make binding decisions subject to appeal to an appellate instance; such a system would be consonant with international standards of justice, ensuring both equal access to justice and a right of appeal.

43. Morocco supported decentralization and professionalization of the system. The effectiveness of the formal procedures would largely depend on the legal and judicial competence, experience, independence and qualifications of judges. The procedures for the selection and removal of judges should be such as to ensure independence. The General Assembly should appoint all of the judges, not only those of the Appeals Tribunal. Morocco supported the proposal that existing mechanisms of the United Nations system of justice should continue to operate until the new system became operational in January 2009.

44. Improving the system of justice, an ambitious but necessary reform, should enjoy the support of all and was a joint endeavour to be pursued by all concerned — Member States, the Administration, and the staff. Real political will would be needed to overcome differences.

45. It was the Sixth Committee's role to make proposals regarding the legal aspects, leaving consideration of the administrative and budgetary issues to the Fifth Committee. Once apprised of the Fifth Committee's changes in its proposals, the Sixth Committee should ensure that those changes did not unduly undermine due process, fairness and justice.

46. **Mr. Rodger Young** (United States of America) said that the United States delegation was still analysing the comprehensive report of the Secretary-General (A/62/294). The United States supported efforts to create a more effective and efficient internal justice system for the United Nations, an enormously important and enormously complex undertaking. Progress had been made in the Committee at its spring session, but delegations had not reached consensus on some significant issues, including basic questions about the appropriate scope and powers of the new administration of justice system, whether it should apply to non-staff personnel, and the role of staff associations.

47. Deficiencies in the existing system called for diligent efforts towards improvement but not at the expense of careful and thorough consideration of the issues. It was premature for the Working Group to begin detailed consideration of language for the new statutes of the formal judicial system. A broader discussion was first needed on basic principles before discussion on statutes and rules could be productive. The Advisory Committee on Administrative and Budgetary Questions had considered aspects of the item and the Fifth Committee would be considering administrative and budgetary implications of various proposals. Recommendations from the Sixth Committee not in keeping with budgetary realities would be of limited practical value. Getting the right result was more important than getting a fast result.

48. The recommendation to extend the system of justice beyond staff members to cover consultants, individual contractors, and daily paid workers was a source of deep concern. The United Nations obligations to staff members and non-staff members were different, and dispute resolution mechanisms for each should remain separate, although contractors and others might need a more flexible system. Even if the General Assembly could develop such a system, the Assembly could not itself alter the dispute settlement provisions of service contracts in place between the United Nations and its various categories of non-staff personnel.

49. While staff associations had a valuable role to play in assisting individual employees in understanding their rights and helping them to pursue remedies, expanding the associations' role to permit them to litigate as parties would likely lead to litigation of institution-wide issues that should be resolved politically.

50. The United States did not support proposals for a new office with full-time lawyers offering staff direct legal representation in pursuing their claims. Aside from the pro bono assistance available under the current system, legal assistance provided by the Organization should be limited to providing information about the process and procedures of the United Nations administration of justice system. The system for assisting staff could be strengthened, but the assistance provided by the Organization should not involve advocacy in a particular case. Such advocacy would displace the appropriate advisory role of a staff association and inappropriately encourage litigation, as the office would have an incentive to file claims in order to ensure its relevance. No other international organization of which his delegation was aware provided such assistance before administrative tribunals. The asserted examples of such assistance from national jurisdictions cited in the Secretary-General's report, such as military justice systems, were not to the point since they involved assistance to persons in defending themselves against disciplinary actions brought by their own Government, not assistance in pursuing affirmative claims for relief. Military justice systems were quite different from administrative disciplinary systems even for public-sector civilian workers. Federal agencies in the United States, for example, did not provide counsel for employees facing disciplinary charges, let alone those wishing to sue their employer.

51. The cap on compensatory damage awards, a feature common to many systems, should not be eliminated and should be adjusted only following careful analysis. Moreover, it would be inconsistent with modern principles of justice to allow issues of both fact and law to be heard at both levels of the justice system. Modern principles of justice did not require more than one judge to hear disputes at the trial level, as would be the case with the United Nations Dispute Tribunal. More than one judge at the trial level would reduce efficiency of proceedings, undermining a key goal of the reform. Greater clarity was also needed as to the types of claims staff members could pursue, in particular whether such claims would be limited to allegations of violations of the written terms of the United Nations Staff Regulations and Rules.

52. **Mr. Abdelsalam** (Sudan) said that he welcomed the constructive initiative earlier proposed by the Chairman of the Working Group on administration of justice in his informal briefing following the Committee's 1st meeting. The Working Group was the appropriate forum in which to comment on the comprehensive report of the Secretary-General on the subject (A/62/294).

53. In contrast to past attempts to reform the system of administration of justice at the United Nations, the deliberations during the previous session had already yielded landmark results. Within the context of its own mandate the Committee had established the key features of an independent, transparent, professionalized, adequately resourced and decentralized system comprising both formal and informal mechanisms. The informal resolution of disputes would be a mainstay of the new system by alleviating pressure from the formal system, while also successfully achieving effective justice. He hoped that the task of drawing an integrated legal framework for that system would be completed during the current session with a view to meeting the implementation deadline of January 2009.

54. Also important were efforts to finalize the legal, administrative and financial principles for the establishment of a system based on respect for human rights and satisfying the requirements of the rule of law, justice and fairness. As the Organization that strove to ensure the strict application of international human rights standards and observance of the rule of law in its role as guardian of international peace and security, it was now more vital than ever for the United Nations to put its own house promptly in order as far as the issue of administration of justice was concerned.

55. **Mr. Kuzmin** (Russian Federation) said that strengthening the rule of law and reforming the system for the administration of justice at the United Nations had long been a matter of urgency. Some of the sections of the Secretary-General's report on the administration of justice (A/62/294) gave the impression that the General Assembly had already approved the Redesign Panel's recommendations (A/61/205), whereas it had merely endorsed the idea of establishing a new justice system comprising formal

and informal components; all the various details were still open to discussion.

56. His delegation agreed that the current consultative bodies should indeed be abolished, and a two-tier system consisting of a United Nations Dispute Tribunal and a United Nations Appeals Tribunal should be established. It was, however, puzzling why the new Appeals Tribunal should continue to act as an administrative tribunal for certain organizations, including the International Court of Justice and the International Tribunal for the Law of the Sea, which used the current Administrative Tribunal on the basis of an exchange of letters. There was nothing to prevent those organizations from signing a new agreement and employing the two-tier system.

57. With regard to the elements of the new tribunals' statutes, the key criterion for determining the tribunals' jurisdiction *ratione personae* should be the absence of any other means of legal redress for the persons in question (in national courts, for example) due to the Organization's jurisdictional immunity. While the new system of internal justice should cover Secretariat staff, non-staff personnel and experts on missions, to whom the Organization bore a number of obligations, circumspection was required with regard to the Secretary-General's proposal to provide individual contractors with access to the system, since they could have recourse to arbitration and carried out activities entailing substantial commercial risks. Therein lay the essential difference between their work and that of an international civil servant. Hence their inclusion might overload the internal justice system. One solution might be to grant access to the system only to contractors possessing the status of experts on mission.

58. The new system's jurisdiction *ratione materiae* should encompass disputes arising from a breach of the Organization's obligations to persons coming within the Tribunals' jurisdiction *ratione personae*. To refer only to violations of conditions of employment would unduly narrow their jurisdiction and restrict the rights of those persons, since the existence of the Organization's privileges and immunities meant that no relief could be sought in other forums in the event of such disputes.

59. The impartiality and independence of both Tribunals must be guaranteed by stipulating that only the General Assembly could appoint and dismiss judges. Their appointment by the Secretary-General would not be entirely proper and would lead to a conflict of interests inasmuch as the Tribunals would be called upon to consider the decisions of the Secretary-General or of managers accountable to him. A further matter requiring consideration was whether disputes should be examined by one or three judges. On the one hand, if judges sat in panels of three that would slow down proceedings and make them more expensive; on the other, it would be consistent with the important principles of collegiality and the representation of different legal systems. Possibly the Secretary-General's suggestion that procedural questions could be considered by a judge sitting alone but that substantive issues should be examined by a panel of three judges would be a reasonable compromise.

60. On the whole, his Government supported the proposal to strengthen the system of Ombudsmen, who should be appointed by the General Assembly, and to reinforce mediation mechanisms, and it agreed with the idea of differentiating between the formal and informal systems of internal justice. It was also in favour of establishing a means of providing professional legal assistance to persons entitled to submit claims to the internal justice system, since the absence of such assistance under the current arrangements, coupled with the fact that the Administration's ability to avail itself of lawyers specialized in the Organization's rules and regulations, violated the principle of the equality of arms.

61. Although it was important to retain the possibility for management to review any decision which was likely to be referred for judicial consideration, such a management evaluation would have to be carried out by the Department of Management in a timely manner and must not delay proceedings. The report advocated a number of extremely useful new departures in the field of disciplinary matters, such as sending legal advisors to field missions in order to help heads of office or mission to decide on disciplinary action and delegating authority for disciplinary decisions to heads of offices away from Headquarters or heads of peacekeeping or political missions. Supplementing those moves with centralized management evaluation would heighten the effectiveness of management without impinging on appropriate on-the-spot monitoring of managers' activities or on staff members' rights.

62. Disciplinary processes should include the right of any accused person to state his or her point of view. As far as the sharing of duties for investigations between the Office of Internal Oversight Services (OIOS) and other units was concerned, OIOS should continue to

investigate only category I violations. Moreover OIOS procedures must ensure that persons under investigation had the right of reply. The Office must further send its final report to those persons and their supervisors. He requested the Secretary-General to report to the General Assembly on steps currently being taken by OIOS to work out standard procedures for investigations conducted by managers and to update its Investigation Manual. His delegation was, however, opposed to the Secretary-General's suggestion that the Department of Safety and Security should be given investigative functions.

63. The Sixth Committee must give priority to considering the draft elements of the statutes of the tribunals and it must adopt substantive decisions on them, possibly in the form of resolutions. His comments should not, however, be regarded as support for the establishment of any specific posts or the earmarking of any resources, which were matters falling within the mandate of the Fifth Committee.

64. **Mr. Omar** (Malaysia) said that he commended the effort of the Redesign Panel in formulating a new administration of justice system to enhance the efficiency of the Organization. The existing system was outmoded, dysfunctional and inconsistent. His delegation, recognizing that the Panel of Counsel was extremely under-resourced and not professionalized, supported the proposal for an Office of Staff Legal Assistance staffed by persons with legal qualifications, at minimum those recognized by the courts of Member States, who would serve on a full-time basis and be properly resourced.

65. The decentralized, streamlined, independent and cost-efficient system of justice proposed by the Redesign Panel, if well resourced, would reduce conflicts within the Organization through more effective informal dispute resolution and would ensure expeditious disposition of cases in the formal justice system. Decentralization should ensure that staff serving in field operations, who constituted the majority of staff, were effectively covered. The proposal therefore merited due consideration.

66. While redesigning the system of justice would require additional resources, it would contribute considerable efficiency benefits to the system of justice, the slowness and complexity of which carried significant hidden costs. The cost implications would have to be considered thoroughly, in consultation with Member States, before any final decision was taken and before the new system was implemented in January 2009.

67. **Mr. Moreno** (Venezuela) said that it was vitally important to redesign a system of justice rendered inefficient by a lack of independence and professionalism. Several prior attempts to reform the system had been unproductive, as had been recognized by the report of the Redesign Panel (A/61/205), which had found the United Nations internal justice system to be outmoded, dysfunctional and ineffective. An administrative system of justice was needed that would be staffed by full-time personnel. There should be a single tribunal with two tiers, which would deal with all challenges to administrative decisions and render binding judgements, including those rescinding the contested decision. The tribunal should enjoy full independence, have its own budget and be governed by the principles of due process, procedural promptness, and judicial economy. Its members should be selected with a view to broad geographical representation and should serve full-time. The subject-matter jurisdiction of the tribunal should not be restricted; it should be enabled to rule on any administrative decision that might affect the rights of staff.

68. Also desirable was a mediation mechanism to facilitate mutually advantageous settlements for parties able to resolve their differences directly. The mediator, having heard the parties, could formulate voluntary recommendations with a view to relieving the tribunal of an excessive caseload. Both mediators and judges should be selected from lists based on candidatures submitted by Member States and should have confirmed experience and knowledge of administrative and labour law.

69. An Office of Staff Legal Assistance should also be established, with its own budget and sufficient resources to provide free legal advice to all United Nations personnel.

70. **Mr. Mikanagi** (Japan) said his delegation agreed that close coordination with the relevant United Nations bodies, including the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions, was essential in strengthening the system of administration of justice. In seeking to introduce fundamental changes to the existing system, it was important to ensure that the new one was legally sound, in particular by paying careful consideration to its scope and to the statutes and rules applicable to the work of the new tribunals.

The meeting rose at 4.50 p.m.

United Nations
A/C.6/62/SR.3

General Assembly

Sixty-second session

Official Records

Distr.: General
6 November 2007

Original: English

Sixth Committee

Summary record of the 3rd meeting
Held at Headquarters, New York, on Wednesday, 10 October 2007, at 3 p.m.

Chairman: Mr. Tulbure .... (Moldova)

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The meeting was called to order at 3.05 p.m.

Agenda item 108: Measures to eliminate international terrorism (A/62/37, A/62/160 and A/62/291)

1. **The Chairman**, noting that the International Convention for the Suppression of Acts of Nuclear Terrorism had entered into force on 7 July 2007, said that by completing the draft comprehensive convention on international terrorism, as called for in the United Nations Global Counter-Terrorism Strategy, the Committee could make an important contribution to the legal framework for combating international terrorism.

2. **Mr. Perera** (Sri Lanka), Chairman of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996, introducing the Ad Hoc Committee's report (A/62/37), said that the Ad Hoc Committee had held its eleventh session in February 2007 and had held two plenary meetings and three rounds of informal consultations, in addition to informal contacts, on the draft comprehensive convention on international terrorism. It had also held a round of informal consultations on the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations.

3. Delegations had reiterated the importance of an early conclusion of the draft comprehensive convention and of preserving the integrity of the bulk of the text, on which there seemed to be substantial agreement. There was a general sense that a solution to the outstanding issues continued to revolve around draft article 18. The Coordinator of the draft comprehensive convention during the eleventh session had presented a text that sought to capture the different concerns raised, and delegations had expressed interest. He hoped that the intersessional contacts held since February had generated the necessary momentum for a positive result.

4. It was important not to lose sight of the aim of the endeavour, which was to conclude a criminal law enforcement instrument and thereby provide an effective legal framework for enhanced international cooperation in combating terrorism. He urged the Committee to seize the opportunity to discharge its obligations as the principal norm-creating body of the Organization by delivering a finalized text to the General Assembly and thus meet the expectations of the international community.

5. **Mr. Le Luong Minh** (Viet Nam), speaking on behalf of the Association of Southeast Asian Nations (ASEAN), encouraged Member States to step up cooperation in implementing the action plans contained and the measures identified in the United Nations Global Counter-Terrorism Strategy and to ensure the successful conclusion of the draft comprehensive convention on international terrorism.

6. Although the draft convention had yet to enter into force, measures for implementing it were already under discussion. At a meeting held in Vientiane, Lao People's Democratic Republic, on 28 June 2007, the ASEAN Senior Officials Meeting on Transnational Crime Working Group on Counter-Terrorism had accepted responsibility for monitoring and reviewing implementation of the draft convention following its adoption. An expert working group had been established in order to develop an ASEAN comprehensive plan of action for implementation, and a workshop on facilitating the instrument's entry into force would be held in Indonesia during the current month.

7. ASEAN also cooperated with countries of other regions in combating terrorism. In May 2007, members of its Regional Forum (ARF) had convened in Singapore at the Fifth Inter-Sessional Meeting on Counter-Terrorism and Transnational Crimes. With its theme of inter-civilizational dialogue, the Meeting had brought government officials together to discuss ways of promoting such dialogue in order to enhance the international counter-terrorism effort, thereby complementing the implementation of Security Council resolution 1624 (2005). The participants had made a number of recommendations and drafted a Statement on Promotion of Inter-Civilizational Dialogue. At a Ministerial Meeting held in the Philippines on 2 August 2007, the Ministers for Foreign Affairs of the ASEAN States had adopted that Statement and had endorsed the ARF Cooperation Framework on Counter-Terrorism and Transnational Crimes, a compilation of previously agreed commitments in those areas.

8. In implementation of the ASEAN-Japan Joint Declaration for Cooperation in the Fight against International Terrorism (2004), the ASEAN countries and Japan had been conducting counter-terrorism

dialogues in order to identify areas for capacity-building cooperation, most recently in Kuala Lumpur on 10 and 11 September 2007.

9. Speaking as the representative of Viet Nam, he said that from 27 to 31 August 2007, the Executive Directorate of the Counter-Terrorism Committee (CTED), had visited Viet Nam in order to monitor the implementation of Security Council resolutions 1373 (2001) and 1624 (2005). In its preliminary conclusions on the visit, the Counter-Terrorism Committee had commended Viet Nam for its commitment to combating terrorism and willingness to cooperate with the United Nations and had recognized the Government's efforts to improve its legal and institutional framework through its national judicial reform strategy and operational mechanisms in the area of counter-terrorism. The relevant national bodies were reviewing the Committee's findings and recommendations in order to submit proposals for implementation measures to the Government.

10. **Mr. Beras** (Dominican Republic), speaking on behalf of the Rio Group, said that the Group wished to reiterate its strong condemnation of terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes. Terrorism, one of the most serious threats to international peace and security, respected no boundaries, rules, ideologies or beliefs. Since it operated on a transnational level, no country had the means to combat it alone, and it must be dealt with through cooperation and coordination among States. The Rio Group reiterated its willingness to contribute actively to the implementation of the United Nations Global Counter-Terrorism Strategy, which promoted comprehensive, coordinated and consistent responses to terrorism and took into account the conditions conducive to the spread of terrorism.

11. To be successful and gather broad support from the international community, measures to combat terrorism must be conducted in strict observance of international law, in particular the Charter of the United Nations. States must refrain from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations and uphold the right to self-determination of peoples under colonial domination or foreign occupation, the sovereign equality of all States, the resolution of disputes by peaceful means, non-interference in the internal affairs of States and the fulfilment in good faith of the obligations assumed in accordance with the Charter. Acts of terrorism constituted violations of human rights and fundamental freedoms, including the right to life, liberty, security and freedom of movement, and hence must be strongly combated. But counter-terrorism measures that violated international law, particularly human rights law, humanitarian law or the law of refugees, were unjustifiable and unacceptable.

12. An effective counter-terrorism strategy must be holistic and include preventive measures. It must address the causes conducive to the spread of terrorism by promoting the eradication of hunger and poverty, sustained economic growth, sustainable development, democracy, human rights for all and the rule of law. It was imperative to reduce the social and economic divide among nations, promote intercultural understanding and ensure respect for all religions and culture. In that regard, the Rio Group welcomed two recent developments: the Group of Friends Ministerial Meeting, held on 26 September 2007 under the Alliance of Civilizations initiative and the High-level Dialogue on Interreligious and Intercultural Understanding and Cooperation for Peace, held on 4 and 5 October 2007.

13. The Rio Group supported the invitation of the Secretary-General to Member States to make a special effort to try to conclude a comprehensive counter-terrorism convention in order to complement the legal framework already in force. The results of the eleventh session of the Ad Hoc Committee suggested that there was still a need to work cooperatively to reach consensus. The Group urged all Member States to continue negotiations to that end.

14. The Rio Group stressed that sanctions aimed at combating terrorism must be implemented in accordance with international law, due process and the rule of law, principles that must be respected by all United Nations bodies, including the Committees established pursuant to resolutions 1267 (1999) and 1373 (2001).

15. **Mr. Forshaw** (Australia), speaking on behalf of the CANZ group of countries (Australia, Canada and New Zealand), said that the CANZ group reaffirmed its strong condemnation of all acts of terrorism in all its forms and manifestations and recognized that terrorism continued to present a serious challenge to international peace and security. Targeting and deliberate killing through acts of terrorism could not be

justified or legitimized by any cause or grievance. Although counter-terrorism measures had significantly disrupted terrorist networks, there was no room for complacency, since terrorist groups had demonstrated a capacity for innovation and resilience. Events of the past year on the Pakistan/Afghanistan border and in Africa, the Middle East, Algeria and India showed that terrorism remained a very real menace; Germany and Denmark had been fortunate to have foiled attacks by Al-Qaida-linked groups, and there were still groups in South-East Asia with both the intent and the capability of undertaking terrorist bombings.

16. Member States must counter the stereotypes and misconceptions that terrorists sought to exploit and refute the claim that there were irreconcilable differences between religions and cultures. Interfaith and intercultural dialogue could contribute by reaching out to moderates and isolating extremists.

17. It was vital for the international community to be united in its unequivocal condemnation of terrorism. At the United Nations, Member States had an opportunity to set the global standard that terrorism could never be justified. The CANZ group urged States to conclude a comprehensive convention on international terrorism as soon as possible to supplement the 13 counter-terrorism instruments with universal application and provide a solid foundation for international cooperation in preventing, prosecuting and punishing terrorist acts. CANZ members hoped that the United Nations Global Counter-Terrorism Strategy would provide an impetus to Member States to adopt practical measures to facilitate counter-terrorism cooperation by way of extradition, prosecution, information flows and capacity-building. CANZ members were also concerned about the emerging threat of chemical, biological, radiological and nuclear terrorism and were working with other countries to respond to that threat, for example, through the International Atomic Energy Agency's Nuclear Security Plan. CANZ members welcomed the growing role of the United Nations Office on Drugs and Crime and the Counter-Terrorism Committee Executive Directorate in providing technical assistance at the regional and national levels and consulted closely with them.

18. The CANZ group continued to support strongly the counter-terrorism work of the Committees established by Security Council resolutions 1267 (1999), 1373 (2001) and 1540 (2004) and called on all Member States to meet their obligations under those and other Security Council resolutions, including resolution 1624 (2005) on incitement to terrorism. Recognizing that those obligations placed a heavy burden on smaller developing countries, CANZ members assisted with capacity-building measures at the regional level.

19. New Zealand, for example, continued to convene the Pacific Island Forum Working Group on Counter-Terrorism and in May 2007 had hosted a high-level symposium on the Alliance of Civilizations and the third meeting of the Asia-Pacific Regional Interfaith Dialogue, co-sponsored by the Philippines, Indonesia and Australia. It used the Asia Security Fund, established in 2006, to contribute to wider regional efforts to address religious radicalization and expand counter-terrorism assistance.

20. Canada actively supported the efforts of partner countries to fight terrorism by providing training and assistance in South and South-East Asia and the Latin American and Caribbean region through its Counter-Terrorism Capacity-Building Program and in the area of the former Soviet Union through its Global Partnership Program. It was also reaching out to its diverse ethno-cultural and religious communities to ensure that they did not feel marginalized by counter-terrorism policies.

21. Australia was constantly assessing the terrorist threat and emerging trends in terrorist activity in its region and re-evaluating counter-terrorism strategies; it had committed over $450 million to counter-terrorism cooperation in the region since 2002. In March 2007 it had co-hosted with Indonesia a subregional ministerial conference to advance cooperation in counter-terrorism, which had produced a substantial programme of follow-up activities.

22. **Mr. Zinsou** (Benin), speaking on behalf of the Group of African States, said that the African States strongly and unequivocally condemned terrorism in all its forms and manifestations, wherever and by whomsoever committed, including State terrorism. All nations, whether or not they were affected directly by terrorist acts, had a common interest in adopting a preventive approach. The adoption of the 1999 Organization of African Unity Convention on the Prevention and Combating of Terrorism and the establishment in Algiers of the African Centre for the Study and Research on Terrorism (ACSRT) had

demonstrated the African States' commitment to addressing the problem of terrorism.

23. Inter-State cooperation in the apprehension of terrorists and the prevention and investigation of terrorist acts should be further strengthened. He welcomed the Trans-Sahara Counter-Terrorism Initiative that had been developed by ACSRT and the United States, as well as the Madrid Declaration and Plan of Action on strengthening the legal regime against terrorism in West and Central Africa.

24. The African States were endeavouring to meet their international counter-terrorism obligations under the relevant international instruments and Security Council resolutions, but many of them were hampered by inadequate resources and capacities. He appealed to the international community to provide adequate support for their efforts.

25. He welcomed the progress made in drafting a comprehensive convention on international terrorism and suggested that the definitions of terrorism contained in regional instruments might be of use to the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996. The new instrument should in no way deny the right of peoples to self-determination and should make a clear distinction between terrorism and the legitimate struggle of peoples under colonial or alien domination and foreign occupation for self-determination and national liberation, as recognized in many General Assembly resolutions, including resolution 46/51; the struggle of national liberation movements did not constitute terrorism. The proposal to convene a high-level conference under United Nations auspices in order to formulate an international response to terrorism in all its forms and manifestations should be given serious consideration.

26. **Mr. Madureira** (Portugal), speaking on behalf of the European Union; the stabilization and association process countries, Albania, Montenegro and Serbia; and, in addition, Armenia, Georgia, Moldova, Norway and Ukraine, stressed that acts of terrorism were unjustifiable, regardless of their motivation; terrorists had no respect for national boundaries or human rights and did not speak for any one culture or religion. The United Nations was the only truly global forum for countering terrorism and had a key role to play in mobilizing the international community. All counter-terrorism measures should be taken in accordance with international law, in particular human rights law, refugee law and humanitarian law.

27. The European Union was committed to implementing the United Nations Global Counter-Terrorism Strategy in cooperation with all Member States. It recognized the important work of the Counter-Terrorism Implementation Task Force, which should be further consolidated through the provision of resources under the regular budget of the Organization. The question of whether to convene a high-level United Nations conference on counter-terrorism should be deferred until agreement on the draft comprehensive convention was reached; he trusted that delegations would be as committed to finalizing that instrument as they had been in the case of the International Convention for the Suppression of Acts of Nuclear Terrorism.

28. He urged Member States to become parties to and implement all the international counter-terrorism instruments and commended the United Nations Office on Drugs and Crime Terrorism Prevention Branch for their work in delivering technical assistance to States in relevant areas. The European Union would continue to support and cooperate with the Security Council Committees established pursuant to resolutions 1267 (1999), 1373 (2001) and 1540 (2004) and recognized that many States continued to require assistance in implementing those resolutions as well.

29. Only through a culture of dialogue could the tensions, prejudices and, above all, ignorance on which terrorism fed be overcome. The European identity was a multiple one that reflected manifold, pluralist influences. The European Union would continue its efforts to strengthen dialogue and promote mutual understanding between cultures and civilizations and welcomed the work of the Euro-Mediterranean Partnership, initiatives such as the Alliance of Civilizations and interfaith dialogue, and the efforts of the United Nations Educational, Scientific and Cultural Organization in that area.

30. **Mr. Malmierca Díaz** (Cuba), speaking on behalf of the Non-Aligned Movement, said that criminal acts intended to provoke a state of terror in the general public, a group of persons or a particular person were unjustifiable under any circumstances. Terrorist acts were the most flagrant violations of international law, including international humanitarian and human rights law. They endangered the territorial integrity and

stability of States and had adverse economic and social consequences. The Non-Aligned Movement rejected terrorism in all its forms and manifestations; in particular, those in which States were directly or indirectly involved were unjustifiable, whatever considerations or factors might be invoked to justify them. He reaffirmed the Movement's support for General Assembly resolution 46/51 and other relevant resolutions on the legitimacy of the struggle for national liberation and self-determination of peoples under colonial or alien domination and foreign occupation and called for a definition that differentiated terrorism from that struggle. Terrorism could not be associated with any religion, nationality, civilization or ethnic group, and those attributes should not be used to justify counter-terrorism measures such as profiling and invasion of privacy.

31. The Movement urged all States, in combating terrorism, to fulfil their obligations under international law and international humanitarian law, including by prosecuting or extraditing the perpetrators of terrorist acts; preventing the organization, instigation or financing of such acts directed against other States from within or outside their territories or by organizations based therein; refraining from organizing, instigating, assisting, financing or participating in terrorist acts in the territories of other States; refraining from encouraging activities within their territories directed towards the commission of such acts; refraining from allowing the use of their territories for planning, training or financing such acts; and refraining from supplying arms or other weapons that could be used for terrorist acts in other States.

32. The Movement also demanded that all States refrain from providing political, diplomatic, moral or material support for terrorism. It urged all States to ensure that refugee status and other forms of legal status were not abused by terrorists and that terrorists' claims of political motivation were not recognized as grounds for refusing requests for their extradition. It reiterated its call for the convening of an international summit conference under United Nations auspices in order to formulate a joint response to terrorism in all its forms and manifestations, including identification of its root causes.

33. He encouraged States which had not yet done so to consider becoming parties to all the international counter-terrorism instruments, reiterated the need for a comprehensive convention on international terrorism and called on States to cooperate in resolving the outstanding issues. States should also implement the Global Counter-Terrorism Strategy.

34. The Movement rejected as violations of international law and the Charter of the United Nations any actions and measures, particularly the use or threat of use of force, directed against any of its members by the armed forces of any other State under the pretext of combating terrorism or in pursuit of political aims, including by categorizing them directly or indirectly as sponsors of terrorism. It called on the Security Council sanctions committees to streamline their listing and delisting procedures to address concerns regarding due process and transparency.

35. The relevant United Nations bodies should strengthen national, regional and international efforts to implement the international counter-terrorism instruments and related United Nations resolutions, provided that such efforts were consistent with the Charter, international law and the instruments in question. Lastly, he called on Member States to amend their domestic law in order to criminalize all terrorist acts, as well as support for and financing and instigation of such acts.

36. **Mr. Charles** (Trinidad and Tobago), speaking on behalf of the Caribbean Community (CARICOM), said that the States members of the Community deeply regretted the failure of international efforts thus far to conclude a comprehensive convention that would prevent and punish terrorism in all its forms and manifestations without violating the fundamental inalienable right to self-determination of peoples under colonial and alien domination or foreign occupation. Multilateral negotiation was the only legitimate means of ensuring that all Member States participated as sovereign equals in that process; he called on delegations to resolve their differences in a spirit of compromise in order to bring the matter to a successful conclusion at the earliest opportunity.

37. The CARICOM States were in large measure parties to the various counter-terrorism instruments and, in some cases, had enacted implementing legislation. They also sought to implement Security Council resolutions 1373 (2001) and 1540 (2004) and to meet their reporting obligations, despite their burdensome nature. He stressed the need for cooperation among States in the gathering and sharing

of intelligence and the extradition of persons accused of terrorist acts.

38. Some 30 years previously, the CARICOM region had suffered from a terrorist act that had resulted in the loss of many young lives; the alleged perpetrator had yet to face justice. He therefore urged that terrorism should be categorized as one of the most serious crimes of concern to the international community and that its perpetrators should be prosecuted in the same manner as those accused of other heinous crimes such as genocide, war crimes and crimes against humanity. States should give serious consideration to amending the Rome Statute of the International Criminal Court, as envisaged in resolution E of the Final Act of the 1988 Rome Conference, in order to include terrorism in the list of crimes within the jurisdiction of the Court once a definition was adopted.

39. **Mr. Aslov** (Tajikistan), speaking on behalf of the Shanghai Cooperation Organization (SCO) (China, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan and Uzbekistan), said that SCO members held terrorism to be one of the most serious threats facing the international community and wished to reaffirm their condemnation of terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes. At a time when terrorists could deploy plentiful financial resources and advanced technologies and could take advantage of unresolved conflicts, collective mechanisms of international cooperation and global counter-terrorism systems were necessary in order to combat them. Such systems could only be effective if they were established under the auspices of the United Nations and operated in strict compliance with its Charter. In that regard, it was important to strengthen the central, coordinating role of the United Nations, exercised through both the Security Council and the General Assembly.

40. SCO members believed that efforts to fight terrorism must be consistent, free of double standards and in keeping with international law, and they opposed any attempt to associate terrorism with any religion, civilization or ethnic group. Effective results could only be obtained by combining preventive measures with enforcement measures. Terrorists should be deprived of their ideological underpinning through efforts to strengthen legal and institutional frameworks and eradicate the conditions conducive to the spread of terrorism. SCO laid great stress on cooperation between the State and civil society, including non-governmental organizations, the media and the private sector.

41. From its inception SCO had made it a priority to strengthen security mechanisms against the new threats. Its fundamental document in that regard was the Shanghai Convention on Combating Terrorism, Separatism and Extremism, signed in 2001. On the basis of that Convention, the Regional Anti-Terrorist Structure had been established and had become operational as a centre for information-sharing, analysis and coordination among SCO members in the fight against terrorism. SCO members had also conducted joint anti-terrorism exercises for their armed forces, most recently in August 2007, to enhance capability for a coordinated response to a terrorist threat in the region. Currently SCO members were implementing their 2007-2009 programme of cooperation in combating terrorism, separatism and extremism and planned to expand it to include measures to combat the financing of terrorism, money-laundering and drug trafficking, a major source of funds for terrorism. SCO was seeking to expand cooperation and share experience with other regional organizations such as the Collective Security Treaty Organization and the Anti-Terrorist Centre of the Commonwealth of Independent States, and it welcomed the willingness of the Association of Southeast Asian Nations to foster a closer partnership. SCO was also seeking closer ties with the United Nations counter-terrorism bodies.

42. Another area of concern to SCO members was incitement to terrorism and the spread of the ideologies of terrorism and extremism, particularly through the use of modern technologies. At the most recent SCO summit in 2006, a plan had been developed to enhance information security, including measures against the use of modern information and communications technology for terrorist purposes. Modern technology should be able to bring cultures and civilizations together, rather than contributing to their alienation.

43. The adoption of the United Nations Global Counter-Terrorism Strategy by the General Assembly had created the conditions for greater international cooperation in the fight against terrorism. One of the top priorities in that regard was to make progress in the drafting of a comprehensive convention on international terrorism, and his delegation stood ready to help advance that work.

44. **Mr. Amil** (Pakistan), speaking on behalf of the members of the Organization of the Islamic Conference (OIC), said that they strongly condemned all acts of terrorism, irrespective of its motivation, objectives and forms, and were convinced that it could never be justified. In that connection he drew attention to the resolution on combating international terrorism adopted at the thirty-fourth session of the Islamic Conference of Foreign Ministers, and to the Joint Communiqué of the second Annual Coordination Meeting of the OIC Ministers of Foreign Affairs, held in New York on 2 October 2007. Terrorism should not be associated with any religion, race, values, culture or group; and in a globalized world, there was a greater need than ever before to build bridges among cultures and peoples. That could be done through initiatives such as Dialogue Among Civilizations.

45. Only through a coordinated approach, such as the United Nations Global Counter-Terrorism Strategy, would the international community be able to combat terrorism effectively. The Strategy addressed the root causes of terrorism, which included foreign occupation, festering international disputes, denial of the right to self-determination, political and economic injustices, and political marginalization and alienation.

46. The OIC members reiterated their call for a high-level conference under the auspices of the United Nations to formulate a joint response by the international community to terrorism in all its forms and to agree upon a definition of terrorism. It also reiterated its support for the decision taken at the Counter-Terrorism International Conference, held in Riyadh in February 2005, to establish an international counter-terrorism centre, as well as for efforts to develop an international counter-terrorism code of conduct.

47. The OIC members reaffirmed their determination to make every effort to reach an agreement on and finalize the draft comprehensive convention on international terrorism by attempting, inter alia, to resolve the outstanding issues related to the legal definition of terrorism, particularly the distinction between terrorism and the struggle of peoples for self-determination and against foreign occupation.

48. **Mr. Barriga** (Liechtenstein) said his country strongly condemned all terrorist acts and was committed to contributing fully to international efforts to combat terrorism. While commending the adoption of the United Nations Global Counter-Terrorism Strategy, he felt that the Sixth Committee should not duplicate the plenary process and should focus on its main outstanding task, namely the conclusion of the negotiations on the draft comprehensive convention on international terrorism.

49. Liechtenstein considered that the proposal submitted by the coordinator of the eleventh session of the Ad Hoc Committee was a viable basis for compromise and should be taken very seriously. It was necessary to address the substance of the outstanding issues, which mostly concerned article 18 of the draft convention. Other provisions of the convention should nonetheless be taken into consideration when interpreting any proposals related to article 18. It was also important to look at the wider framework of international conventions in that area which had a bearing on the significance and interpretation of the draft convention.

50. The convention would not provide a final overarching legal definition of terrorism and add little in terms of scope to existing conventions in the area. It would mainly fill the gaps between existing conventions and be relevant in cases relating to States which were not parties to an otherwise applicable sectoral convention, but parties to the comprehensive convention.

51. Furthermore, the convention would not affect the right to self-determination and should not make a distinction between terrorism and that right, since that would be very easy to misunderstand. Draft article 18, paragraph 1, stated clearly that nothing in the convention "shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law". Even in the exercise of the right to self-determination, however, all actors should still abide by the rules governing such action, in particular humanitarian law.

52. His delegation supported efforts to clarify the relationship between the draft convention and international humanitarian law, based on the conviction that the convention should not interfere with the rules of armed conflict by criminalizing conduct otherwise not prohibited under that law. That was clearly within the spirit of the current draft text, as evidenced in article 2, which stated that only acts committed "unlawfully" could qualify as a terrorist offence.

53. Two clarifications were necessary in that respect. First, excluding combatants in an armed conflict from the application of the convention at the international level was without prejudice to their status under domestic law; they could still be prosecuted under national criminal law. Second, permitting acts that were "lawful" under the rules of armed conflict did not imply that future States parties to the convention would be able to import through the back door standards of international humanitarian law by which they had not previously been bound. All references in the draft convention were to applicable rules of international humanitarian law.

54. The draft convention did not explicitly address the concept of State terrorism, but did not exclude it. For instance, draft article 2 brought within its scope those who participated as accomplices, or who organized or directed terrorist offences, thereby leaving much room for acts committed by State agents. Lastly, the draft convention could more accurately be described as "general" rather than "comprehensive", reflecting the fact that its scope under article 2 was defined in more general terms than in existing sectoral conventions.

55. **Ms. Bichet-Anthamatten** (Switzerland) reiterated her country's strong condemnation of terrorism in all its forms and said that combating terrorism remained a high priority for Switzerland.

56. One year before, Member States had pledged to implement the Plan of Action of the United Nations Global Counter-Terrorism Strategy and the time had come to take stock of the situation. Currently it would seem that specific measures were necessary and expected from Member States to put those commitments into practice. It would be desirable to take the opportunity to strengthen the role of the General Assembly, as the body endowed with universal legitimacy in normative matters, in the fight against terrorism. Switzerland was willing to make a commitment in that respect.

57. Switzerland regretted that, despite constructive proposals, work on the negotiation of a comprehensive convention had made little progress. The finalization of that text remained the main task outstanding from the 2005 World Summit Outcome. She urged Member States to participate actively and constructively in the negotiation process and said that her country was willing to consider seriously any proposal regarding draft article 18 based on the text of the coordinator of the eleventh session of the Ad Hoc Committee, provided that the integrity of humanitarian law was respected.

58. Believing that increased respect for human rights and the rule of law would enhance the legitimacy of anti-terrorist measures, Switzerland welcomed the adoption of Security Council resolutions 1730 (2006) and 1735 (2006) which sought to establish fairer procedures for listing and de-listing by United Nations sanctions committees, and particularly welcomed the creation of a focal point to receive de-listing requests. It nevertheless thought that further measures were needed to guarantee the fundamental principles of the rule of law.

59. **Mr. Rogachev** (Russian Federation) said that the United Nations Global Counter-Terrorism Strategy was comprehensive, consensus-based and innovative. It facilitated the building of multilateral anti-terrorist international cooperation under the auspices of the United Nations. The review of the implementation of the Strategy scheduled for later in the year should allow a focus on important implementation issues such as how to establish clear and balanced implementation mechanisms.

60. Special efforts were needed from all States, with the support of the Counter-Terrorism Implementation Task Force. The Russian Federation's experience with the G-8 initiative for public-private partnerships to counter terrorism had been positive. Political and organizational frameworks had already been established for that purpose and it was time for concrete projects. The initiative was achieving satisfactory results, with increasing adherence from the Russian Federation, foreign partners.

61. The Security Council and in particular its Counter-Terrorism Committee, established to monitor the implementation of resolution 1373 (2001), could make a significant contribution to the implementation of the Strategy. According to the Strategy, States should comply with the provisions of that resolution, including by introducing anti-terrorist legislation, adopting measures to prevent the financing of terrorism and participating in universal international conventions to counter terrorism. He also recalled the provisions of Security Council resolution 1624 (2005) aimed, among other things, at countering incitement to commit terrorist acts.

62. One of the main provisions of the Strategy concerned regional and subregional anti-terrorist efforts made by international organizations. The United Nations should play a central and coordinating role in such efforts. In that connection he noted the active anti-terrorist efforts of such organizations as the Commonwealth of Independent States, the Shanghai Cooperation Organization, the Collective Security Treaty Organization and the Eurasian Group on Combating Money-Laundering and the Financing of Terrorism. The Russian Federation, in cooperation with other members of those organizations, would support and continue those efforts.

63. He assumed that the General Assembly would give special attention to strengthening the international legal basis of the fight against terrorism, including supporting universal adherence to the various international anti-terrorism treaties.

64. On 19 September 2007 the Russian Federation had deposited with the International Civil Aviation Organization its instrument of ratification of the 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection. That Convention was the last of the aforementioned treaties to be ratified by his country, thus confirming the latter's readiness to fulfil all of its commitments under those instruments.

65. In July 2007 the International Convention for the Suppression of Acts of Nuclear Terrorism had come into force. That instrument had been prepared in the context of the General Assembly on his country's initiative. The Russian Federation would fulfil the provisions of the Convention in good faith and would make every effort to encourage other States to become parties and to implement its provisions.

66. Implementation of the Global Initiative to Combat Nuclear Terrorism had begun, with a view to mobilizing national and international efforts of States in that area. The number of participating States was growing steadily and already exceeded 60. His country would continue its efforts to implement the Initiative and do everything possible to prevent terrorists from obtaining weapons of mass destruction.

67. One of the key tasks of the General Assembly was still the rapid conclusion of a universal convention on international terrorism. The establishment of a universal definition of terrorism would help to establish a legal basis for anti-terrorism cooperation. His country would cooperate fully with all States and groups of States in seeking compromise solutions to unresolved formulations in the draft.

68. The Russian Federation reconfirmed its determination to actively oppose the global terrorist threat by increasing the systemic joint efforts of States, international organizations and civil society in the struggle against that evil.

69. **Ms. Negm** (Egypt) said that her delegation reiterated its condemnation of terrorism in all its forms and manifestations regardless of its motivations or objectives. It also emphasized the importance of not associating terrorism with any specific religion or culture as that entailed injustice and instigated malice and hatred. Furthermore, it was important that States should respect human rights in their efforts to combat terrorism.

70. There was an urgent need to address the root causes of terrorism and eradicate the many political, economic and security factors that nourished it, such as unresolved conflicts, double standards in implementing international legitimacy and foreign occupation. Believing that a distinction should be drawn between terrorist acts and the legitimate struggle of peoples for self-determination in accordance with international humanitarian law, and that acts committed by States against innocent civilians with a view to terrorizing them should be criminalized. His delegation stressed the need to finalize negotiations on the draft comprehensive convention, especially with respect to article 18. It underlined the importance of holding a high-level conference under the auspices of the United Nations to agree upon a definition of terrorism, speeding up the conclusion of the convention.

71. The General Assembly played a vital role in the fight against terrorism, and it was therefore appropriate that the implementation of the United Nations Global Counter-Terrorism Strategy should be reviewed by that body, rather than by the limited number of States which were members of the Security Council. His delegation would exert all its efforts to conclude negotiations on the draft comprehensive convention so as to reinforce the supremacy of international legitimacy and strengthen the role of the United Nations in establishing international peace and security.

72. **Mr. Pramudwinai** (Thailand) said that his country had long recognized terrorism as being one of the most serious threats to national and international peace and security. It had always condemned terrorism

in all its forms and manifestations and had become a party to nine of the United Nations anti-terrorism conventions and protocols, the most recent being the International Convention against the Taking of Hostages.

73. Turning to the negotiations on the draft comprehensive convention, he stressed that any counter-terrorism measures taken against an individual should be based on fair treatment and respect for that individual's rights in accordance with national law and international human rights law. The draft convention should also be used as a legal framework to strengthen cooperation under the Global Counter-Terrorism Strategy. In order to avoid duplication of work among United Nations bodies, the current monitoring and supervisory mechanisms assigned to the Counter-Terrorism Committee, the Counter-Terrorism Committee Executive Directorate and the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime should be streamlined and incorporated into the draft convention.

74. Thailand had signed the ASEAN Convention on Counter-Terrorism and hoped to ratify it in 2007. It would welcome the sharing between regions of experience regarding lessons learned and best practices in the area of counter-terrorism.

75. **Mr. Al Ateeqi** (Kuwait) said that his country condemned terrorism in all its forms and manifestations, regardless of its motives, and believed it was inadmissible to link terrorism to any religion, nationality or ethnic group. It therefore stressed the need to respect human rights, international law, and international human rights law when combating terrorism. It confirmed its support for the United Nations Global Counter-Terrorism Strategy and its Plan of Action, as well as the importance of conducting regular reviews of the Strategy.

76. He urged the international community to speed up its work with a view to finalizing the draft comprehensive convention and adopting a legal definition of terrorism, and emphasized the importance of not confounding terrorism with the right of peoples to self-determination and freedom from foreign occupation.

77. In an attempt to spread the moderate message of Islam, based on respect for cultural and religious pluralism and rejection of extremism and terrorism, Kuwait had established the International Moderation Centre in 2006. It had also, in the same year, organized the first and second international conferences on moderation in London and Washington, respectively. On 30 July 2007, it had acceded to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.

78. Kuwait had been one of the first countries in the Arab world to implement mechanisms and banking measures to combat money-laundering and had established a special committee for that purpose under a Ministerial Resolution of 1998. Furthermore, it had implemented all international standards and obligations set by the World Bank concerning measures to combat money-laundering and the financing of terrorism.

79. **Mr. Hannesson** (Iceland) said that terrorism, a serious threat to peace, security, development and human rights, affected all States, small or large, most often targeting innocent civilians. A crime against the human values that the United Nations upheld, it could never be justified under any circumstances, no matter what its motive or objectives. Iceland unequivocally condemned terrorism in all its forms and manifestations.

80. Iceland welcomed the United Nations Global Counter-Terrorism Strategy as a global response to a global problem. Its implementation should remain a priority for all States. Coordination and information were vital to its effectiveness and the Counter-Terrorism Online Handbook was a helpful tool to that end. The work of the United Nations Counter-Terrorism Implementation Task Force was also to be commended.

81. The various international conventions and protocols and regional conventions on the issue were important tools but, to make them effective, all nations must become parties. Iceland, a party to all the universal legal instruments to prevent terrorist acts and to the European Convention on the Suppression of Terrorism, welcomed the entry into force of the International Convention for the Suppression of Acts of Nuclear Terrorism of 2005. Although consensus had not yet been reached on the draft comprehensive convention on international terrorism and the convening of a high-level conference, Iceland remained confident that progress would be made in the near future. Iceland likewise looked forward to closer

cooperation in the future with the Security Council and its subsidiary bodies assisting in anti-terrorism work, including the Security Council Counter-Terrorism Committee.

82. Counter-terrorism efforts were crucial for the protection of peace and security, but it was equally important that they be based on the rule of law and respect for human rights, as only measures respecting the fundamental principles of the United Nations, including humanitarian law and refugee law, were acceptable. Iceland remained dedicated to the efforts by the United Nations to create a more secure world without the threat of terrorism.

83. **Mr. Saw Hla Min** (Myanmar) reiterated Myanmar's condemnation of international terrorism in all its forms and manifestations and its firm belief that terrorism should not be linked to religion, race, culture or ethnic origin. It was a multifaceted global menace requiring a concerted global response. In the fight against terrorism, Myanmar adhered strictly to all relevant resolutions and declarations adopted by the United Nations General Assembly and Security Council, was a party to 11 counter-terrorism conventions adopted under United Nations auspices, and was striving to ensure that its domestic law fully complied with its international obligations. A comprehensive anti-terrorism law was being drafted by legal experts to more effectively meet the challenge. Building and strengthening cooperation among law enforcement agencies was vital. Myanmar took an active part in regional and subregional initiatives, having recently signed the Association of Southeast Asian Nations Convention on Counter-Terrorism. In combating terrorist financing, the Myanmar police force exchanged information with the International Criminal Police Organization, the Association of Southeast Asian Nations police forces and other relevant law enforcement agencies.

84. It was clear that without addressing the root causes of terrorism, anti-terrorism efforts would not have a lasting effect. Dialogue between faiths and civilizations would create an atmosphere conducive to better understanding among religions.

85. An early conclusion of the comprehensive convention on international terrorism would buttress the existing legal framework. An international summit conference on terrorism under United Nations auspices would provide a good opportunity to fill existing gaps. Myanmar remained committed to fighting international terrorism hand in hand with global, regional and subregional partners.

86. **Mr. İlkin** (Turkey) said that terrorism was a crime against humanity which could not be justified under any reason or pretext. No consideration whatsoever could be invoked to justify terrorist acts, nor was there room for selective approaches bordering on double standards. Regardless of motivation, all terrorist acts, methods and practices should be unconditionally condemned. Given the gravity of the situation, words of resolve no longer sufficed; it was high time for the international community to take a firm stance and translate its commitments into action. If countries began differentiating between terrorist acts targeting them and those targeting others, or between military and civilian casualties, sooner or later they would fall prey to the scourge of terrorism. It was understood that success called for an understanding of the conditions conducive to terrorism, but that should not lead to passive observation. After years of suffering at the hands of indiscriminate terrorism worldwide, a consensus on how to proceed still eluded the international community, which was prey to hesitations and indecisiveness. Whatever the reasons, the beneficiaries were the terrorists, who felt further vindicated and encouraged.

87. The United Nations Global Counter-Terrorism Strategy had provided a strong basis for action. The international community should be true to its letter and spirit and cooperate closely in the fight against terrorism. It was within its reach to implement the measures contained in the Strategy and various other related documents, given the political will.

88. Those who intentionally or unintentionally provided safe haven to terrorists in their countries should desist immediately. Those who did not prosecute or extradite terrorists should start doing so at once. And those who allowed terrorists to continue the dissemination of political propaganda and incitement to violence in their countries should not allow freedoms to be turned into weapons in terrorist hands.

89. Within the previous two days, Turkey had lost 15 more victims to terrorism. Words failed to express the depth of anguish and outrage the Turkish people felt. Other countries which were going through or had gone through similar bitter experiences would surely agree that the only way to allay such pain was through a

genuine display of commitment by the international community to resolutely combat and eradicate terrorism. The success of the Committee's work would be gauged not by the number of resolutions it produced but by how effectively the international community could act to eradicate the threat of terrorism. Turkey would do everything in its power to that end.

90. **Mr. Alabas Ibrahim Hamad Al-Harthy** (Oman) said that his country had taken many steps to implement Security Council resolution 1373 (2001), including the establishment of a national counter-terrorism committee and accession to 10 of the international conventions on terrorism.

91. Completing a comprehensive convention on international terrorism required a precise definition of the phenomenon and knowledge of the causes that led terrorist groups to commit terrorist acts, because relating terrorism to a specific religion, race or belief could only engender hatred and violence among different cultures and religions.

92. His country was in favour of the convening of a high-level meeting of the General Assembly on terrorism. It also supported the proposal of the Servant of the two Holy Places, King Abdullah bin Abd al-Aziz Al Saud of the Kingdom of Saudi Arabia, concerning the establishment of an international counter-terrorism centre under United Nations auspices.

93. His Government renewed its support for all international efforts and measures to combat terrorism in keeping with the rules of international law, the principle of national sovereignty and the need to distinguish between terrorism and legitimate resistance to foreign occupation, with a view to the realization of the principles of international justice.

94. **Mr. Alhaidan** (Bahrain) said that eradicating terrorism required greater efforts on the part of the international community, including efforts to ascertain and deal with its root causes. Bahrain commended and supported the United Nations Global Counter-Terrorism Strategy and fully backed the Secretary-General's report on measures to eliminate international terrorism (A/62/160). It welcomed the entry into force, in July 2007, of the International Convention for the Suppression of Acts of Nuclear Terrorism.

95. Inasmuch as terrorism was not connected with any particular religion, culture or race, Bahrain was opposed to any attempt to relate it to Islam, a religion founded on moderation. The common striving for peace, prosperity and justice required a belief in the unity of human destiny and understanding of the fact that international security depended on a common effort to ensure regional security and respect for international legitimacy. Existing dangers, whether they involved terrorism, nuclear proliferation or regional wars and conflicts, must be dealt with on the basis of the purposes and principles embodied in the Charter of the United Nations and the instruments and resolutions adopted by the General Assembly, including the Millennium Declaration.

96. Bahrain had become a party to 11 of the international conventions on terrorism, had ratified the Arab Convention on the Suppression of Terrorism and had acceded to the Convention of the Organization of the Islamic Conference on Combating International Terrorism. It also continued to coordinate its efforts with the members of the Gulf Cooperation Council (GCC) within the framework of the GCC Counter-Terrorism Agreement signed in May 2004.

97. Bahrain stressed once again the need for international cooperation with a view to adopting a comprehensive counter-terrorism convention during the current session. That meant resolving all the related pending issues, including the definition of terrorism and the distinction between terrorism and the struggle of peoples for independence and self-determination in accordance with the principles of international law.

98. **Mr. Gouider** (Libyan Arab Jamahiriya) said that the elimination of terrorism was a matter of vital interest to his country, which had itself been the victim of terrorism. The differences that existed among nations on terrorism were not about the need to eliminate it but about the proper means to that end. His country had taken strong positions against terrorist crimes, including both State terrorism and the terrorist crimes witnessed by the host city of the United Nations. But counter-terrorism efforts had fallen short of their goals. What was needed was a unified and comprehensive approach to the concept of terrorism. His country supported the efforts to draft a comprehensive counter-terrorism convention and to convene an international conference on terrorism. It hoped that such efforts would result in an objective definition of terrorism that distinguished it from the right to struggle against foreign occupation, so that that struggle could no longer be labelled "terrorist" for political purposes. In particular, it hoped that balance

could be achieved in article 18 of the draft convention, which should not ignore the activities of armed forces.

99. **Ms. Blum** (Colombia) said that the United Nations Global Counter-Terrorism Strategy gave the international system a comprehensive perspective in the fight against the scourge of terrorism and defined an approach to strengthening international cooperation in the joint fight needed to confront the various manifestations of terrorism and the resources fuelling it. A year after the adoption of General Assembly resolution 60/288 (2006), there was a need to revitalize the will that had led to the formulation of that document. Terrorist organizations were extending their lethal reach, bent on intimidating public opinion by recurrent threats and acts that took a heavy toll in lives. The international community could not slacken in its effort to banish terrorism, for insofar as citizens and institutions felt threatened, progress made in various areas was exposed and vulnerable.

100. Given the comprehensive nature of the United Nations Global Counter-Terrorism Strategy and Plan of Action, suppressing the sources of financing used by terrorist organizations required concrete, effective measures. It was urgent to criminalize under national law acts which constituted terrorist financing or asset-laundering, applying severe sentences of imprisonment and financial penalties such as seizure and forfeiture; to establish national regulatory and oversight machinery for banks and other financial entities; to establish national and multilateral regimes for detection and monitoring of transactions and other cross-border movements of cash and securities; to strengthen international cooperation for rapid exchange of information nationally and multilaterally; and to establish national financial intelligence units to prevent and contain asset-laundering.

101. To avoid duplication of efforts, the Organization, its Member States and regional or subregional organizations should foster coordination and exchange of information with a view to using existing resources efficiently, especially with regard to: strengthening international cooperation aimed at improved border control and customs measures to detect and prevent terrorist activity; more effective regional and subregional communications systems among police forces and intelligence services, in order to prevent terrorist attacks and contain illicit arms trafficking and related activities; and effective suppression of the global problem of drugs and related crimes, based on the principle of shared responsibility, bearing in mind that the drug trade was a major source of terrorist financing.

102. With regard to judicial cooperation, common protocols should be adopted for the collection, preparation, preservation, transfer and use of evidence in terrorism investigations and prosecutions. Immediate attention should be given to protection and rehabilitation programmes for victims of terrorism. The General Assembly should also consider creating practical means to extend assistance to victims, such as transfer or technology and equipment for physical and psychological rehabilitation.

103. Even prior to the adoption of the Strategy, Colombia had pursued comprehensive action aimed at eradicating from its territory a scourge that had seriously threatened its institutions. Its Democratic Defence and Security Policy had made the country safer and fostered economic growth, in which foreign investment played an important role. The number of killings, abductions and attacks on infrastructure had fallen markedly. Colombia would persist in its efforts with the international community to create a world free of the threat of terrorism.

104. **Mr. Kapambwe** (Zambia) said that his country unequivocally condemned terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes, as one of the most serious threats to international peace and security. Zambia reaffirmed the 2005 World Summit Outcome as it related to terrorism and was working to accede to all anti-terrorism international instruments. The Anti-Terrorism Act enacted by the Zambian Parliament in August 2007 would be used in the fight at the national level. With the impetus gained from the United Nations Global Counter-Terrorism Strategy, his delegation was confident that Member States would soon reach agreement on a comprehensive convention. However, it was necessary to accommodate divergent views and reach a compromise. Given unity of purpose, the few differences remaining should be overcome.

105. The legal definition of terrorism should take into account the legitimate struggles of peoples for self-determination, freedom and independence in conformity with the Charter of the United Nations, international law and human rights. As set out in the United Nations Global Counter-Terrorism Strategy, strengthening national capacity, especially in

developing countries, to enable them to participate effectively in fighting terrorism, was a crucial requirement.

106. The proposed high-level conference under United Nations auspices should formulate a jointly organized response by the international community to terrorism in all its forms and manifestations. Zambia called for flexibility and understanding in the negotiations so that progress could be made and a clear message sent to deter perpetrators of terrorism.

107. **Mr. Kim** Hyun Chong (Republic of Korea) said that his country condemned terrorism in all its forms and manifestations, wherever and by whomever committed, without any qualification. His delegation saw the historic adoption of the United Nations Global Counter-Terrorism Strategy as a testament that all Member States would confront terrorism head-on. The Strategy was an effective approach addressing all aspects of the issue, notably denying terrorists access to financing and to weapons, especially weapons of mass destruction. Equally important was promoting quality education and tolerance and defending human rights, goals for which the Strategy emphasized capacity-building and facilitation of public-private cooperation. Long-term success required addressing the conditions which fuelled terrorism.

108. It was urgent to adopt a comprehensive convention on international terrorism as soon as possible by working together to overcome remaining differences, without losing momentum. All Member States should apply the same spirit of flexibility and compromise that had led to the adoption of the Strategy. The aim was to build a seamless network of international cooperation to facilitate the prevention of acts of international terrorism and to punish perpetrators. The comprehensive convention should fill the gaps left by existing sectoral anti-terrorism conventions.

109. Many of the most dangerous terrorists operated through protean, ever-shifting clandestine networks exploiting globalization to commit their heinous crimes. Against that enemy, only a comprehensive, holistic approach could be effective. Member States, the General Assembly, the Secretariat and the Security Council all had specific expertise and capacities to contribute to the universal fight against terrorism. The Assembly had taken the lead by creating international norms and fostering solidarity, but Member States should play the biggest role by complying with international agreements to prevent and punish terrorism and building a seamless network to that end. The Secretariat was to be commended for launching the invaluable United Nations Counter-Terrorism Online Handbook, which provided current, relevant information for Member States that was essential to ensuring overall coordination.

110. The Republic of Korea was a State party to 12 counter-terrorism conventions and protocols and had been faithfully carrying out their domestic implementation. It would soon complete ratification procedures for the International Convention for the Suppression of Acts of Nuclear Terrorism. States which had not yet done so should join the network of anti-terrorism instruments as soon as possible. His country supported the role of the Security Council and had submitted five reports on its counter-terrorism measures to the Counter-Terrorism Committee and two reports to the Committee established pursuant to Security Council resolution 1540. His country supported the Association of Southeast Asian Nations Regional Forum's contribution to capacity-building in the Asia-Pacific region and had signed the Republic of Korea-Association of Southeast Asian Nations Joint Declaration for Cooperation to Combat International Terrorism of July, 2005. It would host the 4th Association of Southeast Asian Nations Regional Forum Seminar on Cyber-Terrorism and was Chair of the Asia-Pacific Economic Cooperation Counter-Terrorism Task Force for the 2007-2008 term.

111. Terrorism threatened all societies and the values of the international community: the rule of law, respect for human rights, protection of civilians and the peaceful resolution of conflicts. The moral authority of the international community depended on its fundamental respect for the rights so callously disregarded by terrorists. Sacrificing core values would be self-defeating, benefiting only those who sought to justify terrorism. Dealing with terrorism was extremely challenging and complex, as it affected all nations and all shared the responsibility for working to prevent it, but the international community was equal to the task.

The meeting rose at 6.03 p.m.

United Nations

A/C.6/62/SR.4

General Assembly
Sixty-second session

Official Records

Distr.: General
6 November 2007

Original: English

Sixth Committee

Summary record of the 4th meeting

Held at Headquarters, New York, on Thursday, 11 October 2007, at 10 a.m.

Chairman: Mr. Tulbure .... (Moldova)

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Agenda item 108: Measures to eliminate international terrorism (*continued*)

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07-53764 (E)

The meeting was called to order at 10 a.m.

Agenda item 108: Measures to eliminate international terrorism (*continued*) (A/62/37, A/62/160 and A/62/291)

1. **Ms. Rodríguez-Pineda** (Guatemala) said that the universal character of the United Nations made it the most appropriate intergovernmental forum for dealing with the subject of international terrorism, which should not be viewed from the perspective of the individual risk to a given country, but from that of a threat calling for a concerted response from all countries.

2. In May, at the request of the Guatemalan Government, the United Nations Office on Drugs and Crime (UNODC) and the Inter-American Committee against Terrorism of the Organization of American States had run a workshop on the formulation of legislation to implement international anti-terrorism instruments and the Inter-American Convention against Terrorism. The purpose was to establish a dialogue with the main entities responsible for drafting and updating counter-terrorism laws in order to comply with obligations under the conventions referred to in Security Council resolution 1373 (2001) and subsequent Security Council resolutions on the subject.

3. Her Government had already ratified 10 of the existing universal instruments, as well as the Inter-American Convention against Terrorism, and the ratification of six international instruments was pending. Laws to combat international crime and the financing of terrorism had been adopted, and Congress was studying a bill against international terrorism. Current efforts to bring the acts of terrorism identified in universal conventions within the ambit of national legislation would be helped by the conclusion in the near future of a comprehensive convention on international terrorism containing a definition which took account of the multidimensional nature of the phenomenon.

4. Although closer attention should be paid to ex post facto ways of preventing terrorism, such as sanctions, priority should go to addressing the conditions conducive to the spread of terrorism, since all States large or small, strong or weak, were vulnerable to the scourge. Guatemala's geographical position made it a transit point for drugs and exposed it to related criminal activities. Those factors, coupled with extreme poverty, increased the risk of it falling prey to terrorist acts, since organized crime, drug trafficking and terrorism had been found to be interrelated.

5. It was vital to boost international cooperation if international terrorism was to be stamped out. Her country was grateful for the international, regional and bilateral support it had received, but it would still require long-term assistance from the international community for the implementation of the United Nations Global Counter-Terrorism Strategy. Lastly, she commended the delegation of Liechtenstein for organizing a meeting on terrorism and human rights, one aspect of the Global Strategy which needed bolstering.

6. **Mr. Sorcar** (Bangladesh) said that, although the development and codification of conventions on specific aspects of combating terrorism were important tools, it was worrying that no consensus had been reached on a comprehensive convention on international terrorism. He therefore hoped that negotiations on the convention would soon reach a successful conclusion. Terrorism had a wide variety of root causes, including injustice, inequalities, subjugation and exploitation, all of which must be targeted if terrorism was to be eliminated forever.

7. Since his Government condemned terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purpose, it had ratified 13 international conventions on terrorism and it was a party to the Regional Convention on Suppression of Terrorism of the South Asian Association for Regional Cooperation (SAARC). Bangladesh also complied fully with all its obligations under the relevant Security Council resolutions.

8. Terrorism was all pervasive and it crossed the boundaries of race, religion, culture and States. Nevertheless the unfair and imprudent tendency to associate terrorism with Islam not only ignored that religion's contribution to human civilization and culture, but was also breeding distrust, thereby undermining efforts to contain terrorism. Bridge-building would be more effective and, in that connection, he wished to draw attention to the resolution on the culture of peace which his delegation sponsored every year.

9. Any comprehensive convention on international terrorism must address the issue of State terrorism and

any definition of terrorism should be crafted in such a way as to cover all terrorist activities, whether sponsored by a State or non-State actor. Acts of terrorism against innocent people were always abhorrent. For that reason, strict laws must be passed nationally and internationally so as to ensure that a commensurate response was found to every act of terrorism. To that end, the United Nations and the international community should support those who required capacity-building resources.

10. On the other hand, a clear distinction should be drawn between terrorism and the legitimate struggle against colonial domination and foreign occupation. His own country had struggled for independence, and that struggle, like other wars of liberation had been asymmetric and conducted unconventionally. Revulsion against terrorism should not therefore be used for political ends to suppress genuine popular movements striving for freedom and self-determination. Any attempt to do so was bound to backfire.

11. The adoption of the United Nations Global Counter-Terrorism Strategy had been a milestone achievement. The next target must be the early adoption of a comprehensive convention. Public opinion all over the world was in favour of such a move. The opportunity to discharge the Sixth Committee's responsibility to rising generations should not be missed.

12. **Mr. Mansour** (Tunisia) said that despite efforts to eliminate terrorism many countries were still suffering greatly from that scourge, which was taking on alarming proportions and threatening all societies, irrespective of ethnic group, culture or religion. Given the number of victims from the many acts of terrorism which had been committed over the past year, it had to be acknowledged that the battle against terrorism had been unsuccessful and that it could be won only by addressing its manifold underlying causes. Political and economic injustice, long festering conflicts and marginalization were just some of the factors fuelling the hatred on which extremism and terrorism fed.

13. The growing terrorist threat was a constant reminder that unilateral action had its limitations and that closer cooperation between countries all over the world was an essential prerequisite for a firm, effective collective response addressing its underlying causes. While the United Nations remained the most appropriate framework for coordinating such collective action, better coordination and closer synergy between its various organs was vital if it was to function efficaciously.

14. Since the time for a review of the United Nations Global Counter-Terrorism Strategy was approaching, it would be advisable to give greater thought to ways of encouraging Member States to be more proactive with regard to implementation and to how to revive the Strategy to ensure that it answered the latest concerns and was in tune with current circumstances. As part of its endeavours in that direction, Tunisia was preparing to host a large international conference on terrorism in November 2007, which would scrutinize the causes of terrorism and ways of combating it, including the drafting of an international code of conduct binding on all parties. He also wished to remind delegations that his Government advocated convening a high-level conference under the auspices of the United Nations for that very purpose.

15. The conceptual and legal framework put in place by the General Assembly was useful, but deficiencies arising from its sectoral nature pointed to a need for an effective comprehensive instrument. He therefore hoped that consultations would be pursued in a constructive spirit in order to arrive at consensus on a draft comprehensive convention on international terrorism.

16. His country, which was deeply attached to the values of open-mindedness, tolerance and moderation, believed that a dialogue between civilizations and cultures offered the only path to peaceful coexistence in the world by promoting understanding and rapprochement among peoples.

17. **Mr. Mukongo Ngay** (Democratic Republic of the Congo) said that although his delegation condemned terrorism in all its forms and manifestations committed by whomever, wherever and for whatever reason, it believed that the struggle against terrorism must not lead to the negation of human rights. It was a battle calling for large-scale efforts which would bear fruit only in the long term. The emphasis should be on the peaceful settlement of disputes and conflict prevention in keeping with Chapters VI and VII of the Charter of the United Nations.

18. States must coordinate the action of their own police forces and intelligence services better if they wished to participate effectively in the fight against

terrorism. At the same time, cooperation between security forces and intelligence services at home and abroad must be improved and all law enforcement agencies and decision makers must exchange data.

19. Since the war had ended in his country, several advances had been made with regard to combating international terrorism. It had become a party to the United Nations Convention against Transnational Organized Crime and its three protocols and to the International Convention for the Suppression of the Financing of Terrorism. Parliament had approved accession to the International Convention for the Suppression of Terrorist Bombings and ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism. The process of incorporating certain conventions and protocols to which it was a party into its municipal law had commenced with a view to giving its domestic courts jurisdiction to try the perpetrators of terrorist acts and enabling its judiciary to cooperate with other States and international or regional organizations in bringing such persons to trial.

20. His country's Act on money-laundering and the financing of terrorism contained a wide array of measures for the prevention and detection of operations to finance terrorism. The new military code defined and set penalties for terrorism, genocide, crimes against humanity and war crimes, which had hitherto not been covered by national law. In October 2004, the High Military Court had imposed stiff sentences, including the death sentence and penal servitude for life, on army officers who had been found guilty of acts of terrorism.

21. His Government had already presented three reports to the Counter-Terrorism Committee and would be responding to the Committee's comments in the fourth report it would be submitting at the beginning of the next year.

22. In conclusion, he urged delegations to pursue their efforts to complete negotiations on the drafting of a comprehensive convention on international terrorism and drew attention to the need to retain on the General Assembly's agenda the question of convening a high-level conference to formulate a joint, organized response of the international community to terrorism in all its forms and manifestations.

23. **Mr. Omar** (Malaysia) said that his country was already party to eight of the international counter-terrorism conventions and protocols and was preparing to accede to the Convention on the Marking of Plastic Explosives for the Purpose of Detection. Even before it had introduced specific anti-terrorism provisions into its domestic legislation, Malaysia had been able to deal decisively with terrorist groups and extremist movements through its existing laws and procedures, for example through its Sedition Act of 1948, which covered all forms of incitement to violence and public disorder. It had signed the Convention on Counter-Terrorism of the Association of Southeast Asian Nations (ASEAN) in January 2007 after participating actively in its drafting and elaboration.

24. Moreover, efforts were under way to enhance international cooperation mechanisms. Malaysia was the depositary and served as secretariat for the Treaty on Mutual Legal Assistance in Criminal Matters concluded between several ASEAN members in 2004. Senior officials of the parties had adopted a model request form and a model checklist to facilitate use of the treaty. In addition, it had been agreed to establish a pool of experts responsible for disseminating information on the treaty to the relevant ASEAN sectoral bodies and to train the relevant law enforcement agencies of the parties in the use of the treaty in order to facilitate evidence gathering for transnational criminal cases.

25. His Government had responded positively to United Nations reporting mechanisms such as the Committees established pursuant to Security Council resolutions 1373 (2001) and 1540 (2004). After a visit to the country in 2006, the Counter-Terrorism Committee Executive Directorate (CTED) had reported that Malaysia was already fulfilling its obligations under the Security Council resolution 1373 (2001), but that completion of the accession process to the remaining United Nations counter-terrorism conventions and protocols would significantly increase its compliance level.

26. Lastly he expressed his delegation's support for the convening of a high-level conference under the auspices of the United Nations to facilitate the finding of solutions to the broad political issues raised by United Nations efforts to combat terrorism including identifying the root causes. While a discussion of related issues might provide valuable insight, it should not compromise the discussion of the substantive

provisions of the draft comprehensive convention on international terrorism.

27. **Mr. Mohamad** (Sudan) said that in keeping with its rejection of all forms of terrorism the Sudan had ratified 12 sectoral counter-terrorism conventions and was considering acceding to the International Convention for the Suppression of Acts of Nuclear Terrorism. It had hosted the Conference on Terrorism and Extremism in July 2007, which had concluded that terrorism should be combated not by the use of force alone but by addressing its root causes. The Sudan supported international counter-terrorism efforts, including efforts to draft a comprehensive convention on international terrorism. However, such efforts needed to recognize that colonial occupation was in itself a form of terrorism, and the right of peoples to struggle against it should be sacrosanct.

28. Attempts to associate terrorism with a particular religion or civilization risked turning the war against terrorism into a crusade that played into the hands of extremists. Instead, the economic, social and political causes that created a climate favourable to terrorism should be addressed. Attacks on Islam and the Prophet made in the name of freedom of expression were themselves a form of intellectual terrorism. The current United Nations Global Counter-Terrorism Strategy failed to address several key issues, including the definition of terrorism, the distinction between terrorism and the right of peoples to struggle against foreign occupation, State terrorism and the root causes of terrorism. Rather than discussing implementation of the Strategy, the high-level conference on terrorism should review and revise it.

29. **Mr. Yousfi** (Algeria) said that the General Assembly's unanimous adoption of the United Nations Global Counter-Terrorism Strategy had been in keeping with the spirit of the United Nations Charter. The international community must unite in its endeavours to fight terrorism. The consensus achieved over a year ago must be followed up by commitments reflecting the will of all States to give substance to the Strategy, which reflected the General Assembly's determination to coordinate the international community's collective action at the institutional, legal and operational levels. Collective action was all the more important since actions by individual States had proved to be inadequate when faced with the transnational dimension of terrorist manifestations.

30. The main thrust of the Strategy was aimed at doing more to address the many conditions conducive to the spread of terrorism. Conflicts arising from foreign occupation prompted feelings of frustration and humiliation, which led to almost automatic support, especially among young people, for the plans of terrorist groups whose activities debased legitimate resistance to the occupier. It was therefore more urgent than ever before that the United Nations should embody the ideas outlined in the Strategy in action on the ground in order to resolve such situations.

31. Although the initiatives taken by several States and entities over the previous year to clarify the contents of the Strategy and promote its implementation were welcome, its overall character should remain unaltered, and it should be implemented in full, because some of the measures it advocated had to be taken one after another in sequence. Selective implementation would undermine the consensus on which the Strategy rested.

32. If the Strategy was to succeed, it must have the political support of all Member States, and to that end, it would be wise to integrate all United Nations bodies responsible for the fight against terrorism into a single entity modelled on the United Nations Peacebuilding Commission which, by coordinating and rationalizing efforts and resources, would make it possible to take account of all the political, economic and cultural parameters contained in the Strategy.

33. The dialogue of civilizations initiated by the United Nations would favour peace and mutual understanding through collective action and put an end to degrading interreligious diatribes and pseudo-scientific media fury, which merely instilled fear and mistrust among citizens of different religions who had previously lived harmoniously side by side and shown each other mutual respect.

34. Lastly, he would urge all delegations to see to it that the comprehensive convention on international terrorism ceased to be held hostage to the intransigence and stubbornness of those who failed to realize that the adoption of a consensual definition of terrorism would free enormous amounts of energy, which could then be devoted to implementing the Strategy. Nevertheless, the concessions requested in order to arrive at a compromise must not contradict the established principles of international law.

35. **Mr. Hameed** (Maldives) said that his country, having been visited only 12 days earlier by the spectre of terrorism, was firm in its resolve not to allow such cowardly acts of aggression to undermine the peace and tranquillity of Maldivian society. That unprovoked incident had provided a stark reminder that no State, big or small, was free from the scourge of terrorism, which knew no race and no religion and often crossed borders. Earlier in the year, for example, a foreign terrorist organization had used a hijacked third-country fishing trawler to smuggle weapons and explosives, across Maldivian waters, and 19 years earlier, foreign mercenaries had sought to secure a safe haven on Maldivian soil and establish training grounds and a platform for launching attacks in their home country. His Government was determined not to allow any such illegal activity to occur within its territory.

36. The foregoing incidents clearly illustrated the plight of small States, which had limited resources and technological know-how and were thus often unable to contend with terrorist threats. His delegation believed that such threats could only be addressed effectively through greater international cooperation. It was imperative that the international community should assume the moral and political obligation to protect the security of small States, in accordance with General Assembly resolutions 44/51, 46/43 and 49/31.

37. Maldives had consistently advocated international measures to combat terrorism and had signed a number of international conventions on terrorism. Maldives also firmly supported regional efforts to combat terrorism and was a party to the South Asian Association for Regional Cooperation (SAARC) Regional Convention on Suppression of Terrorism and its Additional Protocol. His delegation believed that greater interaction, consultation and cooperation at regional level was needed to complement international efforts. Maldives supported the early completion of the draft comprehensive convention on international terrorism.

38. **Ms. Mwaipopo** (United Republic of Tanzania) said that terrorism was an international phenomenon and no State was immune from its ruthless effects. Only through international cooperation would the countries of the world be able to address the formidable challenge of terrorism. Constructive involvement of all stakeholders was imperative. Her delegation commended the United Nations for keeping the issue on the global agenda and particularly commended the role of the United Nations Office on Drugs and Crime in providing technical assistance for counter-terrorism activities and for the implementation of the universal legal instruments against terrorism.

39. Her Government reiterated its support for the United Nations Global Counter-Terrorism Strategy and pledged to work with the United Nations in implementing the provisions of the plan of action contained therein. It also reaffirmed its support for other relevant United Nations resolutions. Since the 1998 terrorist attack in Dar es Salaam, the United Republic of Tanzania had taken several initiatives at the national and subregional levels to ensure the security of its borders and people. Legislation against terrorism had been adopted in 2002; security at ports and airports had been strengthened; and law enforcement and security officials were working with their counterparts elsewhere in Africa in the fight against illegal migration, drug trafficking, money-laundering, and proliferation of small arms and light weapons and other hazardous materials which might be used to carry out terrorist activities.

40. The United Republic of Tanzania had ratified nine of the international conventions and protocols relating to terrorism and intended to ratify the remaining four in the near future. It had enacted anti-money-laundering legislation in 2006, establishing a financial intelligence unit which would be responsible for receiving, analysing and disseminating suspicious transaction reports and other information regarding money-laundering or terrorist financing. A 2007 law would ensure that money gained through corrupt practices and embezzlement was not used to finance terrorism.

41. Her delegation was grateful for the assistance provided by the United Nations and numerous development partners to facilitate training for Tanzanian judicial, law enforcement and security personnel in effective methods for detecting, preventing and combating terrorism while upholding human rights and the rule of law. The United Republic of Tanzania reiterated its pledge to fight domestic and international terrorism.

42. **Mr. Tham** (Singapore) observed that, while there had been acts of terrorism throughout history, they had not had the global reach of contemporary acts. The ease of modern communications had made it relatively easy for extremists to propagate their poisonous ideas

and their techniques. Terrorism had become a global enterprise, as had been illustrated by the terrorist acts perpetrated around the world in the past year. Terrorist networks, too, were global, often comprising cells, groups and individuals from different countries and operating worldwide. There was a troubling new phenomenon: self-radicalization, independent of direct recruitment by groups and cells.

43. The response to terrorism must also be global in scope. International cooperation was crucial. His delegation therefore welcomed the international community's progress in implementing the United Nations Global Counter-Terrorism Strategy.

44. Singapore had not been spared the threat of terrorism. In 2001 and 2002 the Singaporean authorities had arrested members of Jemaah Islamiyah who were plotting bomb attacks and other terrorist activities. The cell in Singapore was part of a larger regional network affiliated with Al-Qaida. In 2007, the authorities had arrested a Singaporean lawyer who had been influenced by radical discourse that he had read on the Internet. Although he had not committed a terrorist act in Singapore, he had made plans to pursue militant jihad in Afghanistan. The Singaporean Government intended to deal firmly with any Singaporean who took part in or provided support for terrorist acts, whether in Singapore or abroad.

45. Law enforcement was only one facet of his country's broader efforts to combat the scourge of terrorism. Singapore was also endeavouring to combat radical ideologies that attempted to legitimize violence under the veneer of religion. Its Religious Rehabilitation Programme, for example, was a religious counselling programme conducted by religious leaders, which sought to correct the distorted interpretations of religion held by extremists who had been arrested. Singapore had also launched the Community Engagement Programme, which aimed to foster interfaith understanding, dialogue and trust among different communities.

46. Singapore believed firmly in a multilateral approach to terrorism and looked forward to the completion of the comprehensive convention on international terrorism.

47. **Mr. Medrek** (Morocco) said that recent events in the Maghreb and in the Sahel region had clearly illustrated the threat that terrorism posed to international peace and security. Since the creation of the United Nations, an impressive array of legal instruments covering various aspects of terrorism had been adopted. That legal arsenal demonstrated the resolve of Member States to combat terrorism in all its forms and manifestations. Nevertheless, the arsenal suffered from some lacunae which reduced its scope and effectiveness.

48. In 2006 the General Assembly had adopted the Global Counter-Terrorism Strategy. In his delegation's view, the Assembly, because of its universal membership and its powers under the Charter, was the appropriate forum for crafting a coordinated international response to terrorism. The challenge now was to implement the strategy, which the international community should do without delay at the national, regional and international levels, acting to eliminate anything that might encourage the scourge of terrorism while also ensuring respect for the Charter of the United Nations and for international law, international humanitarian law and human rights.

49. Now that the Strategy had been adopted, the next task was to finalize the draft comprehensive convention on international terrorism, which would complete the legal framework for the fight against terrorism. Morocco welcomed the proposals put forward by the coordinator for the eleventh session of the Ad Hoc Committee established by General Assembly resolution 51/210, and it supported continued consultations aimed at breaking the deadlock that had existed since 2002. It wished to see serious negotiations within the Working Group during the current session to address the issues standing in the way of completing the convention. In his view, article 18 was the main obstacle, and overcoming it would help to resolve the other outstanding issues.

50. Morocco reiterated its support for the proposal by Egypt to convene a high-level conference to formulate a joint response by the international community to terrorism. Such a conference could help to strengthen international cooperation and dispel some misunderstandings with respect to terrorism. His delegation also supported the proposals by Saudi Arabia to establish an international counter-terrorism centre and by Tunisia to develop an international counter-terrorism code of conduct.

51. Terrorism fed on xenophobia, intolerance and other forms of fanaticism; it was not confined to any particular country, religion or culture. Initiatives aimed

at fostering greater understanding, dialogue and mutual respect among peoples and cultures — such as the recent High-Level Dialogue on Interreligious and Intercultural Understanding and Cooperation for Peace and the meeting of the Group of Friends of the Alliance of Civilizations — should therefore be encouraged.

52. Individual actions by Member States could not eliminate the roots of terrorism or dismantle its structures. Success in the common fight against terrorism could only be achieved through solidarity among all nations. Morocco had experienced the scourge of terrorism and was firmly and unequivocally committed to the fight against it. It had signed almost all of the international legal instruments relating to terrorism and fully supported the Security Council resolutions on the subject. Recognizing that terrorism was a complex international phenomenon, Morocco had shifted from a national to a regional approach, collaborating with regional organizations and with its strategic partners and allies. That international cooperation was founded, inter alia, on bilateral agreements for mutual legal assistance and extradition and on greater recognition of the expertise of States that had been dealing with terrorism for many years. Morocco reiterated its condemnation of terrorism and its firm resolve to work with the international community in taking concerted action against it.

53. **Ms. Pasheniuk** (Ukraine) said that the United Nations and its specialized agencies should continue to play a key role in providing a solid legal basis for promoting cooperation in combating international terrorism. The adoption of the United Nations Global Counter-Terrorism Strategy had made a concrete contribution to the fight against terrorism at the national, regional and international levels. Ukraine supported international anti-terrorist efforts, in particular, through its participation in the Global Initiative to Combat Nuclear Terrorism, in connection with which her Government would host an international forum during 2007. Ukraine had ratified all of the international anti-terrorism treaties, which were a powerful tool for the prevention and punishment of terrorist acts.

54. Everyone was aware of the outstanding issues relating to the draft comprehensive convention on international terrorism. In her delegation's view, a general definition of terrorism was desirable, as the crimes defined in the existing treaties were broader than the general understanding of what constituted terrorism. At the same time, those instruments did not cover all forms of terrorism. The lack of a generally accepted international definition of terrorism meant that States used their own national definitions, which opened the door to a fragmented approach. The adoption of such a definition during the current session would be a starting point for assessing the counter-terrorism measures taken by each State.

55. **Mr. Tachie-Menson** (Ghana) noted that the issue of terrorism, including the drafting of a comprehensive convention on international terrorism, had been on the Committee's agenda for several years. Progress towards a consensus had been stalled by serious political and ideological differences on a few critical issues. It was important to build on the momentum generated by the adoption of the United Nations Global Counter-Terrorism Strategy. Member States must now muster the necessary political will and take the necessary measures to ensure its effective implementation. The conclusion of a comprehensive convention on international terrorism should form an indispensable part of the implementation strategy, without which the four points in the plan of action annexed to the Global Strategy would be undermined and their impact weakened.

56. The outstanding issues relating to a legal definition of terrorism and to the scope of acts to be covered by the convention should be resolved as a matter of urgency. His delegation reiterated its position that the Committee should be guided by the formulation contained in the 2005 World Summit Outcome and in the Global Counter-Terrorism Strategy, which condemned terrorism "in all its forms and manifestations, committed by whomever, wherever and for whatever purposes". That formulation could help in unlocking the stalemate on the outstanding issues. No cause, ideology, religion, creed or grievance justified terrorism, and moral relativism and ideological considerations had no place in the search for a definition. Member States should work towards a convention that had moral clarity and credibility, and that would command the respect of the international community. The convention should also create mechanisms to give comfort, solace and reparation to victims of terrorist acts.

57. **Mr. Kariyawasam** (Sri Lanka) said that terrorism continued to pose a serious threat to global peace and security by causing economic and political instability. It sought to annihilate societies, subvert the

established order and deny people their basic rights and freedoms. Democracies had become especially vulnerable.

58. Following its recent ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism, Sri Lanka was now a party to 12 of the 13 international instruments against terrorism. The United Nations, which enjoyed legitimacy and the confidence of the global community, was well placed to lead a concerted global campaign against terrorism, promoting respect for the rule of law, good governance and political pluralism. That collective effort should now move beyond declarations and piecemeal approaches towards comprehensive practical measures to strengthen global peace and security and institutions of democracy and governance.

59. As the President of Sri Lanka had recently stated in his address to the General Assembly, it was imperative to conclude the negotiations on the draft comprehensive convention on international terrorism as soon as possible so as to establish a comprehensive legal regime for counter-terrorism efforts, while preserving the integrity of international humanitarian law and giving greater impetus to the United Nations Global Counter-Terrorism Strategy. Sri Lanka had been at the forefront of the campaign for international action to combat terrorism, in line with its belief that mutual understanding among States was necessary in order to tackle the problem effectively. As stated in various instruments and documents of the United Nations, such international action should be supported by efforts to enhance the national capacity of States to fight terrorism.

60. As a member of the Non-Aligned Movement, Sri Lanka reiterated the Movement's condemnation of terrorism and its view that criminal acts intended to provoke a state of terror in the general public could not be justified under any circumstances. Terrorism could not and should not be associated with any religion, nationality, civilization or ethnic group. Moreover, all States should refrain from providing political, diplomatic, moral or material support for terrorism, and should ensure that refugee status was not abused by terrorists, in line with the principles of international law.

61. As part of Sri Lanka's contribution to the global counter-terrorism campaign, the Lakshman Kadirgamar Institute of International Relations and Strategic Studies in Colombo would be hosting an international conference on countering terrorism in October 2007, in which representatives of States and international non-governmental organizations, policymakers, journalists, academics and counter-terrorism experts had been invited to participate. The event would help strengthen the platform for action against international terrorism.

62. Lastly, Sri Lanka urged Member States to ratify or accede to all existing international counter-terrorism instruments and to strive for consensus on the draft comprehensive convention on international terrorism.

63. **Mr. Ja'afari** (Syrian Arab Republic) said that his delegation had been calling for an international conference to establish an accepted definition of terrorism since as early as 1986. In the absence of such a definition, the struggle against terrorism was in danger of becoming a slogan that could be exploited to deprive peoples of the right to self-determination, which was one of the principles upon which the United Nations was founded. Applying the label "terrorist" to the legitimate struggle of peoples against foreign occupation was itself a form of intellectual terrorism that subverted the principles of the Charter of the United Nations and international law, and led to State terrorism such as that being perpetrated by Israel in the occupied Syrian Golan, as well as in Palestine and Lebanon.

64. He hoped that efforts to draft a comprehensive convention on international terrorism would succeed despite the lack of sufficient political will in certain quarters. His Government had ratified 10 of the international conventions relating to terrorism and was considering acceding to the remaining 3. It was also a party to regional counter-terrorism conventions, including the Arab Convention on the Suppression of Terrorism and the Convention of the Organization of the Islamic Conference on Combating International Terrorism. Its national commission for combating money-laundering and terrorist financing continued to cooperate with the Middle East and North Africa Financial Action Task Force (MENAFATF). But the United Nations Global Counter-Terrorism Strategy, despite some commendable aspects that addressed the factors that led to terrorism, was no substitute for a comprehensive convention with an internationally accepted definition of terrorism. The use of force to combat terrorism had only produced terrorism where it had not previously existed, most notably in the Middle

East. His delegation called upon all States to join in the struggle against terrorism, but cautioned against that struggle being used as a pretext for sowing hatred among peoples and civilizations by associating terrorism with any particular religion, people, culture, language or nationality.

65. **Mr. Rachkov** (Belarus) said that Belarus was a party to all the international instruments against terrorism and welcomed the recent entry into force of the International Convention for the Suppression of Acts of Nuclear Terrorism. It also hoped for swift consensus on the draft comprehensive convention on international terrorism and, in that regard, stood ready to support the work of the Ad Hoc Committee established by General Assembly resolution 51/210.

66. His Government condemned terrorism as a means of waging a political struggle, no matter how just the objectives. At the same time, international law must be observed and fundamental human rights and freedoms must be preserved when fighting terrorism. Belarus played an active role in the fight against terrorism at the global and regional levels, as demonstrated by its involvement in the counter-terrorist activities of the Commonwealth of Independent States (CIS) and the Collective Security Treaty Organization. With regard to international efforts to counter the financing of terrorism, the financial intelligence unit of Belarus had joined the Egmont Group in 2007, and the country also participated in the activities of the Eurasian Group on Combating Money-Laundering and the Financing of Terrorism.

67. Belarus was pursuing a specific policy of stemming the tide of illegal migration to Western Europe, since there were grounds for believing that such migration was bolstering terrorist groups and criminal gangs. However, it was unable to accede to all the multilateral legal instruments and counter-terrorist programmes of the Council of Europe. In that regard, his delegation felt that multilateral conventions on combating crime and terrorism should not be closed; those adopted by regional international organizations should allow the access of all States in the region to the mechanisms for cooperation established in them.

68. **Ms. Nworgu** (Nigeria) said that her delegation supported the convening of a high-level conference on terrorism under the auspices of the United Nations, which, together with the hoped-for finalization of the draft comprehensive convention on international terrorism, would make an important contribution to international counter-terrorism efforts. Terrorism was a global threat that required a comprehensive global response. The existing international instruments against terrorism, together with the relevant Security Council resolutions, provided the legal framework for multilateral action. Moreover, the adoption of the United Nations Global Counter-Terrorism Strategy in 2006 had demonstrated Member States' unity in their commitment to combating terrorism.

69. Terrorism could never be justified. Nigeria unequivocally condemned it and had taken bold steps to combat it. It had ratified ten of the international instruments against terrorism and was making efforts to ratify the remaining three, two of which it had already signed. Nigeria's prevention of terrorism bill had been submitted to the National Assembly; when it became law, it would, inter alia, criminalize incitement to commit terrorist acts, in compliance with Security Council resolution 1624 (2005). Pending the enactment of the bill, the country's general counter-terrorism legislation covered offences related to terrorism and the financing of terrorism.

70. In 2003, Nigeria had ratified the International Convention for the Suppression of the Financing of Terrorism. Legislation had been put in place to criminalize money-laundering and to provide for the freezing of the assets of suspected terrorists. The vigorous enforcement of those laws had resulted in a number of convictions for acts of terrorism and the freezing of the assets of four companies in compliance with Security Council resolution 1267 (1999). Four counter-terrorism centres had been set up across the country. The Nigerian Financial Intelligence Unit had dealt with over 2,000 suspicious transaction reports since its establishment in 2005 and had signed memorandums of understanding with many other financial intelligence units around the world. The Central Bank of Nigeria had restructured the banking sector and conducted regular inspections of all banks for the purposes of combating money-laundering and the financing of terrorism.

71. Nigeria's Independent Corrupt Practices and Other Related Offences Commission had established integrity units within each law enforcement agency to prevent and investigate corruption. In addition, the various law enforcement agencies met regularly for the purpose of coordination. Terrorists were denied safe haven in accordance with the relevant bilateral and

multilateral treaties. Nigeria had also entered into bilateral agreements with many countries on mutual legal assistance, extradition and aviation safety. It cooperated extensively with the Counter-Terrorism Committee, whose Executive Directorate had conducted a number of visits to Nigeria, providing an opportunity to review Nigeria's efforts in the war on terrorism. Her delegation urged other countries to take advantage of that facility.

72. Elimination of the root causes of terrorism, as outlined in the Global Counter-Terrorism Strategy, was fundamental to the success of the war on terrorism. In that spirit, an ongoing process of inter-faith dialogue was under way in Nigeria. The inclusive nature of the Nigerian Administration was aimed at eliminating marginalization and the concomitant sense of victimization that fostered extremism and the recruitment of terrorists.

73. Welcoming the establishment of the United Nations Counter-Terrorism Implementation Task Force, she said that efforts should be made to avoid duplication of functions among the various bodies that made up the Task Force, in order to ensure the optimal attainment of its objectives. The Task Force should harness the potential and experience of all countries, big or small, and encourage the pooling of resources in the fight against terrorism.

74. **Ms. Valenzuela Díaz** (El Salvador) said that her Government supported all the measures adopted by the United Nations in the fight against international terrorism, which must be applied with respect for the principles of the Charter and international law. Action by Governments must be conducted within an appropriate legal framework. At the same time, international cooperation was vital if action to combat terrorism was to be effective.

75. At the regional level, El Salvador was a keen advocate of the efforts under way within the framework of the Central American Security Commission to establish a common area of democratic security to complement the counter-terrorism efforts of other subregions in the American hemisphere. At the hemispheric level, El Salvador stressed the importance of cooperation among the members of the Organization of American States (OAS) for the full implementation of the objectives set out in the declarations of the Inter-American Committee against Terrorism (CICTE), in particular the Declaration of San Carlos on Hemispheric Cooperation for Comprehensive Action to Fight Terrorism and the Declaration of Panama on the Protection of Critical Infrastructure in the Hemisphere in the Face of Terrorism.

76. At the international level, El Salvador was a party to all the sectoral international instruments relating to terrorism and was continuing to adapt its national legislation in that area. It also complied with its reporting requirements under Security Council resolution 1373 (2001), in coordination with the Inter-Agency Group against Terrorism (GRICTE).

77. Global cooperation was necessary in order to deal with the continuing threat of terrorism and extremism. For that reason, her delegation welcomed the adoption of the United Nations Global Counter-Terrorism Strategy, which set out a coherent plan for combating terrorism on the basis of respect for human rights and the rule of law. In the year since the adoption of the Strategy, it had become clear that the strategic alliances between Member States, the entities of the United Nations system, regional and subregional organizations and civil society were extremely important. Only through joint efforts would human life be made safe from the threat of terrorism. El Salvador welcomed the Alliance of Civilizations initiative, including the recent Group of Friends Ministerial Meeting, which had fostered closer relations among different cultures. It also supported the High-Level Dialogue on Interreligious and Intercultural Understanding and Cooperation for Peace which had been held recently, and hoped that more such events would take place in the near future.

78. El Salvador would continue to take all the necessary measures to combat terrorism and stood ready to strengthen international cooperation to that end. Her delegation was confident that agreement could be reached in the near future on the draft comprehensive convention on international terrorism, which would be a useful addition to the existing legal framework on the subject. It would collaborate fully with efforts in that regard.

79. **Mr. Koné** (Burkina Faso) said that, in the decades since the General Assembly had begun discussing the issue of international terrorism, much progress had been made, notably the adoption of the United Nations Global Counter-Terrorism Strategy and of the sectoral international legal instruments, 12 of which had been ratified by Burkina Faso. Nonetheless,

certain individuals continued to commit brutal acts that demonstrated their contempt for their own lives as well as the lives of others.

80. No continent or State was safe from terrorism, which was one of the major threats to international peace and security. Africa, which already faced many other challenges, continued to suffer terrorist attacks on a regular basis. Burkina Faso reaffirmed its condemnation of international terrorism in all its forms and manifestations and would continue to support all the efforts of the international community to combat it.

81. In that spirit, Burkina Faso had hosted the Fourth Conference of Ministers of Justice of the French-speaking African Countries on the ratification and implementation of the international counter-terrorism instruments in March 2007. The Ouagadougou Declaration adopted at the Conference had emphasized the importance of international cooperation in combating terrorism in accordance with international law, in particular the Charter of the United Nations and instruments relating to human rights, the rights of refugees and international humanitarian law. International technical assistance in that regard should be strengthened, and any link between terrorism and a particular religion or creed should be avoided.

82. The finalization of the draft comprehensive convention on international terrorism had become a matter of urgency in which the credibility of the Committee was at stake. His delegation stood ready to compromise on the outstanding issues, including draft article 18, provided that the right of peoples to self-determination — an important principle of customary international law — was preserved. There should also be a clear line drawn between the scope of application of the draft convention and that of international humanitarian law. With regard to the definition of terrorism, his delegation was prepared to be flexible. Lastly, it supported the convening of a high-level conference under the auspices of the United Nations to determine a joint response to terrorism.

83. **Ms. Mohajy** (Madagascar) said that the impact of terrorism transcended borders, threatening security at the national, regional and international levels and jeopardizing economic and social progress. The eradication of terrorism required international cooperation and solidarity. In that regard, Madagascar reaffirmed its categorical condemnation of terrorism in all its forms and manifestations. It was to be hoped that, at the current session, agreement could be reached on the outstanding issues with regard to the draft comprehensive convention on international terrorism, including a clear definition of terrorism that was acceptable to all. Her delegation also reaffirmed its support for the convening of a high-level conference under the auspices of the United Nations once the draft convention had been finalized and consensus had been reached on the themes to be addressed by such a conference.

84. Given its geographical position and natural resources, and the risk that it could be used as a terrorist base, Madagascar attached the utmost importance to efforts to combat terrorism on all fronts. It had ratified 12 of the international instruments against terrorism and was working on their implementation. It had also signed the International Convention for the Suppression of Acts of Nuclear Terrorism. It had endorsed the Rabat declaration on nuclear terrorism and had participated in the third meeting of countries that had supported the Global Initiative to Combat Nuclear Terrorism in June 2007.

85. At the national level, an integrated approach to counter-terrorism activities was being taken. Strategies were in place to revise the national plan for the maintenance of security and the prevention of crimes against public order and to strengthen border controls. In implementation of Security Council resolution 1373 (2001), a central counter-terrorism department had been in operation since 2004, albeit with modest resources. A draft plan of action was in place to deal with possible terrorist attacks, and a number of other measures had been taken, including the introduction of biometric travel documents and the establishment of a body to combat organized crime, serious financial crimes and the financing of terrorism.

86. In addition to its close collaboration with the African Centre for Study and Research on Terrorism, Madagascar had strengthened its cooperation with other Indian Ocean islands through the adoption of counter-terrorism strategies and through its accession in March 2006 to the regional security convention of the member States of the Indian Ocean Commission. It had also signed a memorandum of understanding on a regional counter-terrorism strategy for East Africa, which provided for cooperation among the national security and intelligence services of East African countries.

87. Madagascar welcomed the unanimous adoption in 2006 of the United Nations Global Counter-Terrorism Strategy and the symposium held in Vienna in May 2007 on the implementation of the Strategy. It likewise welcomed the holding of the Fourth Conference of Ministers of Justice of the French-speaking African Countries on the ratification and implementation of the international counter-terrorism instruments and the adoption of the Ouagadougou Declaration. In order to implement the Declaration, Madagascar had finalized a bill on combating terrorism and transnational organized crime, which included provisions on mutual legal assistance and extradition.

88. **Ms. Asmady** (Indonesia) said that, as a victim of terrorism, her country welcomed every step forward in the battle against it; inaction was not an option. In recent years Indonesia had taken an active part in comprehensive efforts to counter the threat of terrorism. It had developed close bilateral cooperation in that regard with several countries in the region; it had become party to six global conventions on counter-terrorism and was seeking to join those that remained. It also cooperated consistently with the various committees set up by the Security Council to combat terrorism and had been at the forefront of the adoption of the Global Counter-Terrorism Strategy.

89. While practical cooperation in law enforcement was a necessity, it was also crucial to develop dialogue in order to further mutual understanding and tolerance. Care must be taken not to stereotype terrorism in terms of a specific religion, nationality, civilization or ethnic group. Indonesia accordingly attached great importance to cross-cultural and inter-faith dialogue, to which end it sought the involvement of community leaders, non-governmental organizations and media professionals. It had initiated, jointly with the Norwegian Government, the Global Inter-Media Dialogue and, in cooperation with the United Kingdom, set up an Islamic Advisory Group to promote interaction between Muslim leaders in the East and the West.

90. A balanced, comprehensive convention on terrorism was more necessary than ever, consistent with the principles of international law, respect for national sovereignty and territorial integrity and international humanitarian law. However, such a convention could not be effective unless an effort were made to address the root causes of terrorism. With that in mind, she looked forward to broadminded approaches to resolving the outstanding issues raised by article 18 of the draft instrument.

91. **Mr. Al-Thani** (Qatar) said that his country reaffirmed its commitment to the 1994 Declaration on Measures to Eliminate International Terrorism, the 1996 Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, and the 2005 World Summit Outcome as it related to terrorism. Terrorism flourished in conditions of poverty, oppression and occupation. It could not be confronted unilaterally, and States needed to comply with the provision of Security Council resolution 1456 (2003) that measures taken to combat terrorism should comply with international human rights law. It was to be hoped that the draft comprehensive convention on international terrorism would include a definition of terrorism that distinguished terrorism from the right of peoples to resist occupation. As a current member of the Security Council, Qatar called on all States to comply with sanctions imposed by the Security Council Counter-Terrorism Committee, and had itself submitted all the reports requested by that Committee. It was party to numerous international and bilateral counter-terrorism conventions, and as a member of the Council of Arab Ministers of Justice and of the Interior, had participated in the adoption of the Arab Convention on the Suppression of Terrorism in 1998.

92. Terrorism could not be associated with any particular civilization, religion or culture. All societies had their criminals, and it was a mistake to link Islam or Muslims with every terrorist incident. Terrorists could in fact never be true Muslims, even if some claimed to be. A full understanding of terrorism in all its aspects, combined with political, economic and social reform, was essential for putting an end to the phenomenon of terrorism.

93. **Mr. Gaumakwe** (Botswana) said that initiatives to strengthen global capacity to combat terrorism were important and welcome. Terrorism, one of the single most serious threats to international peace, security and development, needed to be tackled by all countries individually and collectively in a concerted and coordinated manner. While efforts must continue to be made to promote mutual understanding, respect and tolerance through national, regional and international dialogue, practical mechanisms also needed to be put in place to that end. Moreover, the conditions that fostered terrorism should be addressed through the

realization of internationally agreed goals, including the Millennium Development Goals and the objectives of the United Nations Global Counter-Terrorism Strategy.

94. Botswana remained wholly committed to international and regional cooperation in combating terrorism. It had benefited from the support of the international community, in particular the Southern African Development Community and the United Nations Office on Drugs and Crime, in developing its law enforcement capacity and would welcome continued technical assistance to enable its national institutions to strengthen their monitoring activities and respond effectively to new and emerging threats. In August 2007 Botswana had had the privilege of hosting the Eastern and Southern Africa Anti-money-laundering Group Council of Ministers meeting. In conclusion, he would urge the Committee to reach agreement during the current session on a comprehensive convention based on a common understanding of what constituted a terrorist act.

95. **Mr. Sea** (Cambodia) said that Cambodia strongly condemned terrorism in all its forms and manifestations and considered the Global Counter-Terrorism Strategy to be a vital instrument for collectively combating it. It could not succeed, however, unless the root causes of terrorism were addressed, in particular poverty, which made unemployed youth vulnerable to recruitment into terrorist networks. Increased resources should be spent on poverty-reduction programmes around the world, while at the same time efforts should be made to promote a culture of peace, tolerance, mutual understanding and communication across societies and nations.

96. Cambodia, for its part, had recently adopted an anti-terrorism law and was enacting legislation to combat money-laundering and the financing of terrorism. In addition, the National Bank had circulated nationwide the Security Council lists of individuals and entities involved in global terrorism and instructed all financial and banking institutions in the country to freeze their assets. His country strictly controlled the use of weapons, explosive devices, chemical substances and radioactive material and had destroyed large quantities of arms in order to prevent them from falling into the hands of terrorists or other criminal groups. It had acceded to 12 key international counter-terrorism instruments and was envisaging ratification of the Convention for the Suppression of Acts of Nuclear Terrorism. Lastly, at the regional level, it had concluded with the other nine members of the Association of Southeast Asian Nations (ASEAN) a Convention on Counter-Terrorism in order to enhance intelligence exchange, bring to justice any person involved in terrorist acts and share best practices on the rehabilitation of persons convicted of terrorism.

97. **Ms. Nuñez Mordoche** (Cuba) said that Cuba deeply rejected all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomsoever committed, irrespective of their motivations, including those in which States were directly or indirectly involved. However, measures to eliminate international terrorism must be based on strict respect for the Charter of the United Nations and the principles of international law, especially international humanitarian law. They must not be arbitrary or unilateral actions, leading to pre-emptive wars, acts of aggression, covert actions, unilateral sanctions or politically motivated lists or certifications of countries.

98. Cuba attached importance to the conclusion of a comprehensive convention on international terrorism that would contain a clear definition of a terrorist act, encompass activities of armed forces not regulated by international humanitarian law and make a clear distinction between terrorism and peoples' struggles for independence and self-determination. States should also be guided by the Global Counter-Terrorism Strategy adopted in 2006.

99. Cuba had never allowed and would never allow its national territory to be used to carry out, plan or finance terrorist acts against any other State. It had been one of the first three countries to ratify the first 12 international instruments against terrorism and had adopted domestic measures to combat it; it was also currently taking steps to become a party to the Convention for the Suppression of Acts of Nuclear Terrorism. Nevertheless, the United States of America included Cuba in the list of States alleged to sponsor terrorism, while itself allowing its own territory to be used for the planning and perpetration of acts of terrorism against Cuba.

100. A case in point was that of Luis Posada Carriles, an international terrorist who had been responsible for blowing up a Cuban airliner in mid-air in 1976, attacking tourist facilities in Havana and planning

attempts to assassinate the Cuban Head of State. After refusing to comply with the request by the Bolivarian Republic of Venezuela to extradite Posada Carriles, the United States Government had recently released him from prison and was protecting him. Similarly, Orlando Bosch, who had also been involved in the blowing up of the Cuban airliner, enjoyed full freedom in Miami and boasted publicly about his numerous terrorist acts against Cuba. It was worth recalling in that connection the statement by the President of the United States of America that those who harboured terrorists on their territory would themselves be regarded as terrorists. In contrast, five Cubans whose only crime had been to fight terrorism in the same city of Miami, where the authorities allowed actions to be organized against Cuba, had been given heavy prison sentences. The fight against terrorism should be waged without double standards and without impunity, through cooperation among all States, on the basis of respect for each one's sovereignty and non-interference in its domestic affairs.

101. **Mr. Sen** (India) stressed that terrorism was a global threat that required a global response. Unlike liberation struggles, the targeted killing of innocent men, women and children could never be justified regardless of motivation, as a long series of declarations and resolutions on terrorism adopted by the United Nations had maintained. The Global Counter-Terrorism Strategy clearly demonstrated that the international community would no longer tolerate the actions of the sponsors and abettors of terrorism or of those who wilfully allowed terrorists to use their territories. A strong response to terrorism required sustained and specific cooperation through a variety of national, regional and global agencies and practical measures to facilitate such cooperation by way of extradition, prosecution, information exchange and capacity-building.

102. His delegation believed indeed that international terrorism could only be fought through international cooperation, underpinned by duly agreed and ratified international legal instruments. India, which had suffered from terrorism for more than two decades, was a party to all the major United Nations instruments relating to terrorism, including the Convention for the Suppression of Acts of Nuclear Terrorism, which it had ratified early in 2007. The key to preventing terrorists from acquiring nuclear weapons was to strengthen the security of fissile materials stored in nuclear facilities. India attached the utmost importance to the fulfilment of its obligations under the relevant counter-terrorism resolutions of the United Nations. It had filed five national reports with the Counter-Terrorism Committee and in 2006 had received a delegation of United Nations counter-terrorism experts. India had also entered into a number of bilateral and multilateral agreements to cooperate with other States in curbing the scourge of terrorism.

103. Although the legal instruments adopted thus far by the General Assembly relating to specific terrorist activities remained fundamental tools in the fight against terrorism, without the adoption of a comprehensive convention the legal framework would remain incomplete. His delegation continued to believe that agreement was attainable. The issue of a definition need not be an obstacle: the sectoral conventions had eschewed a philosophical definition in favour of identifying the acts that constituted terrorism. All the proposals on the table should be examined seriously, including the new compromise proposal on article 18 submitted by the coordinator of the eleventh session of the Ad Hoc Committee after extensive bilateral consultations. Taken together, the proposals made it clear that there was no contradiction between the draft comprehensive convention and humanitarian law. He would urge all delegations to work to resolve the outstanding issues and reach a compromise that would satisfy all parties, since a comprehensive convention would provide a solid legal basis for the fight against terrorism.

The meeting rose at 1.05 p.m.

United Nations

A/C.6/62/SR.5

General Assembly
Sixty-second session

Official Records

Distr.: General
30 October 2007

Original: English

Sixth Committee

Summary record of the 5th meeting
Held at Headquarters, New York, on Thursday, 11 October 2007, at 3 p.m.

Chairman: Mr. Tulbure. . . . . (Moldova)

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The meeting was called to order at 3.05 p.m.

Agenda item 108: Measures to eliminate international terrorism (*continued*) (A/62/37, A/62/160 and A/62/291)

1. **Mr. Liu** Zhenmin (People's Republic of China) said that terrorism was a grave threat to international peace and security that countries had a common interest in combating. Both preventive and punitive measures were needed, but prevention deserved particular attention. All countries should strengthen cooperation, notably legal cooperation. An international legal framework under United Nations auspices had begun to take shape. The Global Counter-Terrorism Strategy adopted in 2006 again showed the unity and determination of countries to fight terrorism.

2. Terrorist activities had continued unabated, with the number of terrorist attacks growing — a severe and urgent situation presenting the international community with a daunting challenge. Agreement on certain points should be strengthened: combating terrorism in all its forms; improving the international legal system for countering terrorism; ensuring that anti-terrorism laws were effectively implemented; addressing the root causes of terrorism; and helping countries build up their counter-terrorism capacity. Efforts to combat terrorism should meet two key requirements: they must comply strictly with the purposes and principles of the Charter of the United Nations and other universally recognized norms of international law, and they must follow the principle of non-discrimination and avoid double standards.

3. China attached great importance to the work of building a counter-terrorism legal network, had been involved in negotiating various United Nations counter-terrorism conventions, had joined 11 international counter-terrorism conventions and had made effective efforts to fulfil its treaty obligations. Domestic legal procedures were under way to ratify the International Convention for the Suppression of Acts of Nuclear Terrorism and the Revised Convention on the Physical Protection of Nuclear Material. China also cooperated in combating terrorist crimes through bilateral treaties: to date, 32 bilateral extradition treaties and 43 bilateral treaties on judicial assistance in criminal matters had been concluded.

4. China had set up a new system to prevent terrorist financing by adding provisions against such financing to its Criminal Code and formulating an Anti-Money-Laundering Act which had come into force as of 1 January 2007. In June, the People's Bank of China had promulgated Rules on Reporting Suspicious Transactions for Terrorist Financing by Financial Institutions, obliging those institutions to report transactions suspected of being terrorism-related.

5. China continued to take an active part in counter-terrorist cooperation bilaterally, regionally and internationally. It had become a formal member of the Financial Action Task Force on Money Laundering since June 2007 and had taken part in "Peace Mission 2007", the joint counter-terrorism exercise of the Shanghai Cooperation Organization. In September, Chinese armed forces and Russia's domestic security force had conducted a joint counter-terrorism exercise named "Cooperation 2007".

6. Owing to fundamental differences on some key issues, drafting work on a comprehensive convention on international terrorism had been dragging on. That convention, as a supplement to the current international legal framework, could help perfect the legal system. All States should show confidence and good faith and continue to work towards a solution in a cooperative and constructive spirit. China supported the initiative to convene a high-level conference on counter-terrorism under United Nations auspices when conditions were ripe. Such a conference would provide policy guidance for international legal cooperation and help to advance completion and implementation of a comprehensive convention.

7. **Mr. Mvondo Ayolo** (Cameroon) said that although measures to eliminate international terrorism had been on its agenda for 35 years, the United Nations had not yet overcome those dark forces, but the events of 11 September 2001 had sparked a keener awareness of the danger that blind hatred and intolerance held for the world. Terrorists struck randomly at innocent children, women and men, the young and the old, without distinction as to race, culture or religion, undermining the structure of societies. It was the mission of the United Nations to work for understanding and tolerance among peoples and to save mankind from the scourge of war in all its forms, including terrorism. No Member State should approve or support terrorism in any manner. The Global Counter-Terrorism Strategy unanimously adopted in 2006 bore witness to the international community's resolve but needed to be coupled with a true

mechanism of implementation negotiated transparently, reflecting the realities of different international actors. Beyond that, each State had its own tasks to undertake. President Paul Biya of Cameroon had reaffirmed his country's determination to fulfil its commitments. Cameroon already had a legal framework to respond to terrorist acts, pending completion of specific legislation. In addition to the power of the Head of State to invoke article 9 of the Constitution in the event of a grave threat to the country, Cameroon's penal code punished various violations analogous to terrorist acts, and other laws contained severe penalties to deter such acts. Article 97 of the code pertaining to accomplice liability, combined with other national laws, could be invoked to prohibit and punish financing of acts of terrorism. Acts against the security of civil aviation had been made punishable pursuant to Law No. 2001/019. Law 63/4 and the Merchant Marine Code contained provisions applicable against terrorism. The penal code contained penalties applicable to acts against other States and their citizens. By Decree-Law 2005/197 Cameroon had established a national agency for financial investigations tasked with receiving, processing and, as appropriate, transmitting to competent authorities information relating to the provenance of funds and the nature of transactions that fell under suspicion. Cameroon was also a member of all of the regional and subregional counter-terrorism conventions and arrangements, as well as three quarters of the relevant international instruments.

8. A constitutional principle of Cameroon's law giving primacy to conventional rules over domestic rules rendered the provisions of international agreements on terrorism to which Cameroon was a signatory directly applicable before judicial and administrative authorities. Such was the value Cameroon attached to the codification work of the Committee, United Nations action, and action by regional and subregional forums to eradicate terrorism.

9. In endeavouring to ensure implementation of Security Council counter-terrorism resolutions, Cameroon had transmitted its third report to the Security Council Committee established pursuant to resolution 1373 (2001) and its second report to the Security Council Committee established pursuant to paragraph 6 of resolution 1267 (1999) concerning Al-Qaida and the Taliban and Associated Individuals and Entities. A delegation of experts from that committee had recognized Cameroon's work in combating terrorism. In February 2007 Yaoundé had hosted a workshop on ratification and adaptation of national laws to international counter-terrorism instruments.

10. In its current deliberations, the Committee should set aside political and philosophical considerations and, in accordance with its mandate, take a legal approach to the task of drafting a general convention on international terrorism and its consideration of the question of convening a high-level conference. While there unfortunately remained differences of opinion, Member States were committed to negotiating in good faith and reaching agreement on a general international convention. All were in agreement on preserving the bulk of the text; only article 18 on scope of application remained problematic. New ideas, flexibility and political will were needed to reach consensus. Adoption of a general convention was not an end in itself; a multidimensional approach was needed to attack the evil at its root. A high-level conference could help to promote universal accession to international anti-terrorism instruments and strengthen international cooperation in the field.

11. **Mr. Alday González** (Mexico) said that Mexico had recently taken further steps to fulfil its international obligations with regard to combating terrorism. On 28 May 2007, Mexico's National Security Council had established a Specialized High-Level Committee to coordinate executive measures with respect to terrorism, disarmament and international security. Functioning through a general secretariat housed in the National Centre for Research and National Security, the High-Level Committee included a group specializing in counter-terrorism. One of its main functions was to act as liaison between Mexico and international treaty bodies. The High-Level Committee was entrusted, inter alia, with application at the national level of Security Council resolutions 1373 (2001), 1540 (2004) and 1624 (2005), which constituted an important part of the Global Counter-Terrorism Strategy, and preventing States from supplying any form of help to non-state actors with respect to nuclear, chemical or biological weapons and their delivery systems, as well as developing measures to prevent the proliferation of weapons of mass destruction. The creation of the Specialized High-Level Committee was a very important step in enhancing Mexico's institutional framework under the Plan of Action of the Global Counter-Terrorism Strategy.

12. **Ms. Ochir** (Mongolia) said that Mongolia unequivocally condemned terrorism in all its forms and manifestations. A deadly menace threatening the entire world, it could not be justified by any reason or motivation. Adoption of the Global Counter-Terrorism Strategy and Plan of Action marked the common resolve of all countries to fight terrorism. The review of progress made under the Strategy should take stock of all the multifaceted activities undertaken so far. To combat international terrorism effectively, it was likewise of the utmost importance to address conditions conducive to the spread of terrorism.

13. Adherence to the existing counter-terrorism conventions had shown an encouraging increase since 2001, but the treaty regime should speedily be brought to near-universality. States that had not yet done so should accede to the counter-terrorism conventions and protocols. A concerted effort was needed to agree soon on outstanding issues which stood in the way of a comprehensive convention on international terrorism.

14. The Counter-Terrorism Implementation Task Force and the Counter-Terrorism Online Handbook were important contributions in promoting coordinated and coherent efforts and in helping States build capacity, a core element of the Strategy.

15. Mongolia was a party to all the international anti-terrorism conventions and was working to implement their provisions by, among other things, harmonizing its domestic laws with its international obligations, enacting new laws to address emerging issues, setting up an institutional framework, and pursuing cooperation with and technical assistance from its bilateral and multilateral partners. Under its new Law on Combating Terrorism, Mongolia had set up an inter-agency council to coordinate activities and a national plan of action for preventing terrorism and regulating anti-terrorism activities. Mongolia had enacted a Law on Combating Money-Laundering and Terrorism Financing. An evaluation of Mongolia's regime to combat money-laundering and financing of terrorism, based on recommendations of the Financial Action Task Force, had been carried out during the annual meeting of the Asia Pacific Group on Money Laundering. That Group's members had adopted six Mutual Evaluation Reports of Asian countries, including Mongolia. The publication of those reports set a benchmark of transparency and good governance to prevent and combat financing of terrorism in the Asia-Pacific region and provided an example of the requirements for implementing the internationally agreed standards.

16. Keen to implement its obligations under Security Council resolutions, Mongolia had submitted national implementation reports to the subsidiary bodies entrusted with the implementation of resolutions 1373 (2001) and 1540 (2004). To improve its national capacity to implement resolution 1540 (2004), it had developed a three-year project aimed at establishing import and export controls over nuclear and other radioactive materials at points of entry by providing up-to-date, sensitive detection equipment to border control agencies.

17. **Ms. Rodríguez de Ortiz** (Bolivarian Republic of Venezuela) said that the fight against terrorism, one element of the international community's endeavours to promote and secure international peace, should be strengthened through concrete actions to eradicate extreme poverty, promote environmentally sustainable economic and social development, and ensure respect for human rights and for cultural and religious diversity.

18. Her country was determined to combat terrorism in all its forms and manifestations through concrete action at the national and international levels. Nationally, her country had designated three review tribunals and two appellate courts to hear cases of terrorism. A draft law on terrorism was also under consideration and near approval in the National Assembly. Those national measures were notified in June 2006 to the Security Council Committee established pursuant to resolution 1373 (2001) and were in compliance with that resolution.

19. Internationally, her country considered that the international community could and should play an important role in combating terrorism, firstly through prompt adoption of an international legal instrument as a framework to combat terrorist acts in all their manifestations, from which State terrorism could not be excluded since it implied the negation of the rule of law and human rights in the social, civil, political and economic spheres; secondly, through international cooperation geared primarily to prevention and punishment of the guilty rather than the use of force against such offences.

20. In that regard, as part of the work on a draft general convention against international terrorism, it was necessary promptly to achieve consensus on the

definition of "terrorism", which should be balanced in its primary parameters and should take into account that actions taken by peoples in the exercise of the right of self-determination, in struggles for liberation from any form of foreign domination, could not be characterized as terrorism. In that regard, her country fully supported resolution 46/51 (1992) and other relevant General Assembly resolutions.

21. With regard to Security Council resolution 1373 (2001) it was essential that the international community carry out its provisions, which had declared unacceptable the granting of refuge to perpetrators of terrorism.

22. The Bolivarian Republic of Venezuela firmly and categorically rejected the use of political considerations as a justification for terrorist acts or as grounds to deny or delay bringing such criminals to justice. Her country was awaiting a response from the Government of the United States of America regarding the request for extradition of the terrorist Luis Posada Carriles, who was responsible for blowing up an airliner of the airline Cubana de Aviación resulting in the death of 76 innocent civilians on 6 October 1976 and who currently was free on bail granted by a United States court on 19 April 2007. That situation tended to create an exception which undermined international cooperation to combat terrorism in all its manifestations and weakened the legal order arising from relevant multilateral, regional and bilateral agreements. The international community had expressed support for the Venezuelan request in the outcome of the 2005 Fifteenth Iberoamerican Summit, in the final document of the Fourteenth Summit Conference of Heads of State or Government of the Movement of Non-Aligned Countries, and in a statement by the Chairman of the Coordinating Bureau of the Non-Aligned Movement.

23. She wished to recall that, in keeping with Security Council resolution 1373 (2001) and the General Assembly resolution on the Global Counter-Terrorism Strategy, the United Nations was committed to fighting the scourge of terrorism, a commitment which required transparency and firm action by States to find, deny refuge to, and bring to justice all persons who supported or facilitated terrorist acts or who participated in their financing, planning, preparation or commission. It was to be hoped that States would translate their commitments into concrete action, in a manner respectful of law and conducive to international cooperation.

24. **Ms. Radu** (Moldova) said that her Government had demonstrated its commitment to combating terrorism by becoming a party to the International Convention for the Suppression of Acts of Nuclear Terrorism, implementing the relevant Security Council resolutions and adopting a national strategy for preventing and combating money-laundering and the financing of terrorism.

25. Because most terrorist acts were directed towards specific political goals, they were nourished by separatist tendencies that threatened the sovereignty and territorial integrity of States and were accompanied by other criminal activities such as money-laundering and trafficking in weapons and drugs. The adoption of the Global Counter-Terrorism Strategy by all Member States was proof of their intention to provide much-needed legitimacy to United Nations counter-terrorism efforts; full implementation of the Strategy and its Plan of Action should be a priority for all States. Her delegation was pleased that the President of the sixty-second session of the General Assembly had made that implementation one of the priorities of his presidency.

26. However, the lack of agreement on a clear definition of terrorism was impeding the adoption of legislation that would ensure uniform implementation at the international level, guide law-enforcement efforts and establish universal rules of engagement. The current session of the General Assembly was an opportunity to finalize the draft comprehensive convention on international terrorism on the understanding that its adoption would be only one step towards the development of a normative counter-terrorism framework; the real challenge would be to implement the new convention and amend national legislation in accordance with its provisions.

27. **Mr. Baghaei Hamaneh** (Islamic Republic of Iran) said that no country, whether developed or developing, could be said to be immune to the threat of terrorism and no State could overcome it without the help of others. The threat was global and, in an increasingly interconnected world, the solution must be global as well.

28. Counter-terrorism campaigns should be organized under United Nations auspices and conducted in accordance with the Charter and international law. A consensually agreed legal definition was essential in

order to prevent certain Powers from pursuing their long-time practice of naming international public enemies on a subjective, arbitrary case-by-case basis in the light of their national interests. Such a definition must be objective; it must include all forms of terrorism, including State terrorism, and must make a clear distinction between the heinous act of terrorism, whatever its motivation, and the internationally and legally recognized struggle of peoples denied their fundamental right to self-determination.

29. He welcomed the statement in the Global Counter-Terrorism Strategy that "conditions conducive to the spread of terrorism" should be addressed; while root causes could not be viewed as a justification, they should be identified and eliminated as breeding grounds for resentment, despair, hatred, intolerance and violence. Similarly, it had become evident that while resorting to large-scale armed force in retaliation against the perpetrators of terrorism might appear justifiable, it could also mask the symptoms of that problem. Moreover, the extensive use of military force against terrorism had led to the slaughter of innocents, euphemistically termed "collateral damage", and to a vicious cycle of violence and terror.

30. Foreign occupation was the single greatest root cause of terrorism and a violation of the basic tenets of international law, including the Charter of the United Nations and international human rights and humanitarian law. It was important not to play into the hands of terrorists by sacrificing the rule of law and respect for human rights and fundamental freedoms.

31. As a victim of terrorism, the Islamic Republic of Iran condemned it unequivocally in all its forms and manifestations. The killing of innocent civilians was a criminal, abhorrent act and State terrorism was the most dangerous form of terrorism. The ongoing conflicts imposed by non-regional Powers, together with foreign occupation, had led misguided extremists and opportunists to slaughter civilians in Iraq and Afghanistan in a wave of terrorism that threatened to spread to their neighbours.

32. His Government stood ready to cooperate with all States and with the United Nations in combating terrorism. In January 2007, a workshop on preventing and combating terrorism had been organized jointly by the United Nations Office on Drugs and Crime and the national judiciary in order to discuss incorporation of the relevant international instruments into domestic law. The Islamic Republic of Iran had acceded to the International Convention Against the Taking of Hostages on 20 November 2006 and was in the process of becoming a party to the other relevant conventions and protocols.

33. No one should make a distinction between "good" and "bad" terrorism, yet some States continued to delude themselves by believing that terrorism was acceptable where it could be used in pursuit of their hidden political interests and were increasingly resorting to the cold-war proxy pattern of interfering in the domestic affairs of other countries by creating new terrorist groups, training their members and financing their activities in violation of both international law and civilized values.

34. It was imperative for the General Assembly to view the Global Counter-Terrorism Strategy Plan of Action on a regular basis in order to adapt it to new developments. The international community should use the momentum gained from the Strategy's adoption to further develop a comprehensive legal framework for its implementation. He urged the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 to complete its work as quickly as possible and suggested that the Committee's Working Group on measures to eliminate international terrorism might promote that process.

35. His delegation supported the proposal to convene an international conference under United Nations auspices in order to formulate a joint, organized response to terrorism in all its forms and manifestations. Such a conference could facilitate the work of the Ad Hoc Committee by addressing outstanding issues such as the scope of application of the draft comprehensive convention and its relationship to international law and, in particular, international humanitarian law.

36. **Mr. dos Santos** (Mozambique) said that a multilateral approach to terrorism, with the United Nations as the core forum for the development of global strategies and the provision of guidance on practical measures to be taken by Member States, was the best way of addressing that serious threat to international peace and security. His delegation therefore welcomed the adoption of the Global Counter-Terrorism Strategy, which reaffirmed the need for the international counter-terrorism effort to be conducted in accordance with the Charter, the relevant

international conventions and protocols, and international human rights, refugee and humanitarian law.

37. Mozambique was a party to 12 of the international counter-terrorism instruments, the International Convention against Transnational Organized Crime and the protocols thereto and the Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism. It was in the process of ratifying the International Convention for the Suppression of Acts of Nuclear Terrorism.

38. He was pleased that the United Nations Office on Drugs and Crime had expanded its provision of technical assistance and capacity-building to developing countries in order to facilitate implementation of the international counter-terrorism instruments, and he endorsed the Secretary-General's recommendation that that Office should work to meet the increasing demand in that area as more countries ratified the relevant instruments. He also commended the Ad Hoc Committee's efforts to conduct consultations with a view to reaching consensus on the text of the draft comprehensive convention and urged Member States involved in the negotiation process to demonstrate genuine political will and to take a constructive approach.

39. **Mr. Kanu** (Sierra Leone) said that his Government condemned terrorism in all its forms and manifestations, wherever and by whomsoever committed, as a threat to international peace and security. While the international conventions and declarations and the Security Council resolutions adopted since 9 November 2001 had had some effect in decreasing the number of terrorist attacks, they had been largely ineffective and the attacks that had been committed had tended to result in more deaths. The international community had no clear and appropriate mechanism for addressing that problem; the relevant resolutions condemned terrorism, but they had no enforcement mechanism and there were significant gaps and overlapping in the coverage provided.

40. The lack of a legal definition of terrorism was the source of that problem and was the primary reason that terrorism was not covered by the Rome Statute of the International Criminal Court. It was unfortunate that although the draft comprehensive convention was a legal instrument, States had attempted to arrive at a political definition, which could be established through a political declaration. Until the draft convention was adopted, terrorists might be prosecuted by the International Criminal Court as perpetrators of crimes against humanity under article 7 (1) of the Rome Statute.

41. Global counter-terrorism measures should be taken in accordance with international human rights and humanitarian law. There was talk of a "war on terrorism", but it was difficult to declare war on a phenomenon. His delegation supported the call for a high-level conference under United Nations auspices and stressed that the States, individuals and groups perceived as responsible for or associated with terrorism should be invited to take part in that event; Sierra Leone would not have emerged from its 11-year civil war without engaging in dialogue with rebel groups. Moreover, terrorism was understood by some as an attempt at communication by the perpetrators, who should therefore be included rather than limiting them to their traditional means of communication, namely acts of terrorism. Such an approach would not constitute the justification of terrorist acts; instead, it would provide an opportunity to gain a more complete understanding of their root causes in order to prevent and eradicate the problem.

42. **Mr. Omaish** (Jordan) said that no form or manifestation of terrorism could be justified on any grounds and that his Government would continue to combat terrorism and its perpetrators through all possible means.

43. Terrorism was not the problem of any one country or region, nor should it be associated with any religion or group. Its causes and motivations were neutral from the point of view of religion and culture, and it required a global response. Security measures were not enough; political, economic and social factors needed to be addressed.

44. His Government supported the Global Counter-Terrorism Strategy and had adopted a new anti-terrorism law, introduced stricter border controls and required all banks operating in its territory to comply with the relevant Security Council resolutions. His delegation stood ready to work with all parties to achieve consensus on the text of the draft comprehensive convention and wished to stress that all counter-terrorism measures taken at the national and international levels should ensure respect for human rights and the rule of law.

45. Lastly, his delegation welcomed Saudi Arabia's proposal to establish an international counter-terrorism centre and was in favour of convening a high-level conference under United Nations auspices.

46. **Mr. Al-Mansoori** (United Arab Emirates) said that despite international efforts over the last few decades, terrorism was becoming ever more sophisticated and deadly. Measures to combat terrorism should include not only the prosecution of its perpetrators, but consideration of its root causes, which included foreign occupation, political and economic oppression, and racial and cultural discrimination. His delegation renewed its strong support for a high-level international conference to develop a legal framework within which to confront terrorism, on the understanding that holding such a conference would not be linked to completion of the draft comprehensive counter-terrorism convention. He stressed the importance of reaching agreement on a legal definition of terrorism that distinguished it clearly from the legitimate struggle of peoples against occupation. Counter-terrorism measures should be consistent with the principles of the Charter of the United Nations, international law and human rights law. Implementation of such measures needed to be non-selective and respectful of national sovereignty. The international community needed to reject attempts to associate terrorism with any particular religion, ethnicity or culture. In addition, the draft comprehensive counter-terrorism convention should include provisions on State terrorism, such as the State terrorism being perpetrated by Israel in occupied Palestinian and Arab territory.

47. In keeping with its repudiation of terrorism, the United Arab Emirates had formed a national counter-terrorism committee to ensure compliance with Security Council resolutions 1267 (1999) and 1373 (2001). In 2003 it had issued the Federal Counter-terrorism Act, which contained a definition of terrorism and imposed stiff penalties on its perpetrators. It had also taken strict measures against terrorist financing, such as the Anti-money-laundering Act of 2002, and had modernized its border surveillance to prevent the use of its territory by smugglers. The United Arab Emirates had signed 14 international counter-terrorism agreements, the most recent being the International Convention for the Suppression of Acts of Nuclear Terrorism, as well as regional agreements including the 2004 Gulf Cooperation Council Counter-terrorism Agreement and the 1999 Arab Convention on the Suppression of Terrorism.

48. **Mr. Sandage** (United States of America) said that global terrorism affected every aspect of life. No geographical region was immune and no individual could feel totally safe. The vast majority of the victims of terrorism were civilians, and, in 2006, followers of the Islamic faith. Attacks on children had almost doubled in 2006, with over 1,800 killed or injured. Terrorists also targeted the workers essential to a civilized society. The United States welcomed the unanimous adoption of the United Nations Global Counter-Terrorism Strategy, which was a testimony to the collective will of the international community to confront terrorism.

49. Although it was of fundamental importance to capture and bring to justice the key terrorist actors, such actions did not eliminate the threat. Unless terrorist recruitment and the expansion of terrorist groups' global reach was eroded, terrorism would not be eliminated. Long-term measures must be adopted to marginalize terrorists and build trusted networks of Governments, private citizens and organizations, multilateral institutions and business groups that would work together to defeat the threat from violent extremism. Such networks would, over time, wean populations at risk away from subversive manipulation by terrorists, as well as creating mechanisms to address legitimate needs and grievances.

50. The United States strategy to defeat terrorists was structured at multiple levels: it involved a global campaign to counter violent extremism and disrupt terrorist networks; regional collaborative efforts to deny terrorists safe havens; and numerous bilateral security and development and assistance programmes, designed to build liberal institutions, support law enforcement and the rule of law, address political and economic injustice and develop military and security capacity. The global community should, however, work harder to galvanize public opinion into rejecting violence as a means of expressing grievances of any kind. Alienated groups should be enabled to redress their legitimate grievances without joining the terrorist network. In that connection, he informed the Committee that the United States had pledged to the United Nations Counter-Terrorism Implementation Task Force a voluntary contribution of nearly US$ 500,000 and called on other Member States to contribute. The international community must continue

to work together in creating effective multilateral mechanisms for combating terrorism, including the long-pending draft comprehensive convention against international terrorism.

51. With regard to the case of Luis Posada Carriles, the United States had acted in accordance with international and domestic law. As with all democracies that followed the rule of law, legal safeguards provided that an individual could not be brought to trial or extradited unless there was sufficient evidence that he had committed a given offence. Mr. Posada had entered the United States illegally in early 2005. He had been detained by immigration authorities in May 2005 and his removal from the country had been ordered by an immigration judge in September 2005. That order remained in effect. The United States had been seeking ways to implement the order in a way that complied with its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The United States had also obtained a criminal indictment charging Mr. Posada with violations of immigration laws. A United States district court had dismissed the indictment and the Government had lodged an appeal against that decision in June 2007. The judiciary in the United States was wholly independent of the executive branch, and the federal judge in charge of the case had reached her decision in accordance with her reading of the law. A decision by the courts must be obeyed unless and until it was overturned by a higher court. Meanwhile, Mr. Posada remained under investigation for past activities. He remained subject to the order of removal and was without legal status in the United States. He was also subject to an Order of Supervision from the Department of Homeland Security, Immigration and Customs Enforcement, which imposed certain restrictions, including reporting and monitoring requirements. In short, the United States continued to be engaged in action consistent with its legal requirements and due process with regard to Mr. Posada.

52. **Mr. Muchemi** (Kenya) said that terrorism undermined the values embodied in the Charter of the United Nations: respect for human rights, the rule of law, protection of civilians, tolerance among peoples and nations and the peaceful resolution of conflicts. It knew no frontiers and was undiscriminating. No one and no country was immune. Although measures to combat terrorism were put in place at every level, terrorists were quick to find ways of circumventing them. His delegation recognized the central role of the United Nations in coordinating anti-terrorism efforts and endorsed the five pillars forming the basis of the strategy for fighting terrorism, contained in the Secretary-General's report entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005). In that connection, it welcomed the establishment of the United Nations Counter-Terrorism Implementation Task Force. It also supported the work of the Security Council and the Committee established pursuant to its resolution 1373 (2001).

53. At the national level, Kenya had put in place a number of measures, including the National Counter-Terrorism Centre, which, since 2004, collected and analysed all information relating to potential terrorist threats; the Anti-Terrorism Police Unit; and the Suppression of Terrorism Bill of 2003, which was being republished in order to incorporate the views of stakeholders. The Bill provided for clear investigative, preventive and prosecution mechanisms against individuals and organizations suspected of terrorist activities. Other measures included draft legislation on money-laundering, providing for the freezing of funds and confiscation of property of persons or organizations associated with terrorist activities, which had been finalized and awaited debate by Parliament; and the establishment of a special prosecution unit in the Office of the Attorney-General to prosecute terrorism and money-laundering cases.

54. His delegation welcomed the adoption of the International Convention for the Suppression of Acts of Nuclear Terrorism and commended the work of the Ad Hoc Committee established by General Assembly resolution 51/210 on strengthening the international legal framework for suppressing terrorism. Kenya had signed the Convention and had started the ratification process. The international legal framework would not, however, be fully effective until a comprehensive convention against international terrorism was adopted. It was disheartening that just a few outstanding issues, including the definition of the term, had held up the completion of the draft convention. The differences of opinion on them were surely not insurmountable.

55. **Mr. Al-Sheikh** (Yemen) said that his country was resolved to confront terrorism through both national legislation and international efforts, and was already a party to numerous bilateral and multilateral agreements. Terrorism was not connected with any

particular religion, culture or ethnicity, but sprung from a general sense of a lack of justice in the resolution of international problems, in particular the problem of peoples under foreign occupation. In keeping with the principles of Islam, Yemen was working to promote dialogue and mutual understanding between civilizations and cultures. It had for some time been calling for an international conference to define terrorism and differentiate it from the legitimate struggle of peoples against occupation, and to uncover the root causes of terrorism, which included poverty, unemployment and ignorance.

56. Yemen supported the Saudi Arabian initiative to set up an international counter-terrorism centre. It had submitted five reports to the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001), was a party to nine counter-terrorism conventions, and was in the process of taking the legislative measures to accede to three others. It supported the elements of the United Nations Global Counter-Terrorism Strategy that addressed the factors that led to terrorism, but stressed that that Strategy should undergo periodic review. What was needed above all was international agreement on a definition of terrorism that distinguished it from the right of peoples to self-determination and freedom from occupation.

57. **Mr. Mikanagi** (Japan) said that, ever since its adoption, Japan had made the utmost effort to implement the United Nations Global Counter-Terrorism Strategy. Japan also continued to attach importance to the early adoption of the draft comprehensive convention against international terrorism, which would bring to justice those responsible for terrorist acts. Progress on the discussion of the draft convention would send a clear message that the United Nations and the international community were seriously committed to combating terrorism. Member States should make a sincere effort to understand each other's positions and show flexibility. The ratification by Japan in August 2007 of the International Convention for the Suppression of Acts of Nuclear Terrorism had made it a State party to all the international legal instruments against terrorism. His delegation urged other States to follow suit.

58. **Mr. Al-Adhami** (Iraq) reiterated his country's forceful condemnation of all forms of terrorism as terrorist acts posed a serious threat to human rights and international peace and security and obstructed social and economic development. Daily terrorist acts in his country affected all levels of society and were destroying the infrastructure.

59. His delegation condemned terrorist acts but emphasized that the fight against terrorism must respect international law and, in particular, international humanitarian law and human rights law. Furthermore, regional and international cooperation must be strengthened, including by the adoption of effective measures and instruments to limit the movement of terrorists, deprive them of all material support and bring them to justice. Moreover, efforts to combat terrorism would be in vain unless appropriate solutions were found for the causes of terrorism, including poverty, injustice, marginalization, the violation of human rights and double standards in international affairs.

60. **Mr. Maqungo** (South Africa) said that terrorism, by whomever committed, could not be justified under any circumstances, in line with the OAU Convention on the Prevention and Combating of Terrorism. A differentiation should, however, be made between terrorism and the legitimate struggle by a people for its liberation or self-determination, in accordance with the principles of international law. The United Nations Global Counter-Terrorism Strategy was a step in the right direction; but, as it stood, it was no more than a blueprint; responsibility for implementing the Strategy still lay with the United Nations and Member States. Much remained to be done to raise awareness among Member States of the Strategy, and he commended the efforts of some Governments to do so. Many developing countries faced other immediate challenges arising from such issues as poverty, conflict and disease. It was encouraging that the Strategy recognized that the factors conducive to the spread of terrorism must be addressed. His delegation strongly favoured such a holistic approach.

61. Much progress had been made on the draft comprehensive convention against terrorism; but some important issues remained to be resolved. Efforts should be focused not on the manifestations of international terrorism but on the causes, whatever those might be. It was important that the international community should tackle the central question of the definition of terrorism and its causes. In that connection, he emphasized the need to respect international law in implementing measures to eliminate international terrorism. Assassinations,

targeted killings, kidnapping, indefinite detention without trial, torture or mass punishment could not be justified under any circumstances. If States employed measures similar to those of terrorists, they were indistinguishable from the terrorists themselves.

62. **Ms. Schonmann** (Israel) said that the common-sense definition of terrorism was clear: it meant the deliberate and indiscriminate targeting of non-combatants for the purpose of causing havoc and fear. Although no definition had yet been internationally agreed, there could be no doubt that terrorism was unjustifiable, whatever the cause or grievance involved. It was therefore a matter for concern that the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 described terrorism as a "relative concept". One of the complexities of terrorism was the duality with which it was often perceived, being viewed as both a weapon and a method of warfare, a strategy and a tactic. That complexity had recently been compounded, as terrorist groups sought to take advantage of the democratic process in order to advance their violent agenda. No true democracy allowed armed militias or groups with violent agendas to participate in elections; yet some demonstrated double standards, promoting abroad what they would not accept at home, thus empowering those who used democratic means to advance anti-democratic ends.

63. Terrorism was vulnerable, in that it could not operate without a steady flow of funds. Nor could it operate in a vacuum: terrorists were dependent on sympathetic States for sponsorship and support. The Security Council had called on all States to prevent the financing of terrorists, particularly the doubly heinous crime of fundraising in charitable guise. The adoption of the United Nations Global Counter-Terrorism Strategy, which reinforced the international community's unequivocal condemnation of terrorism, was welcome, but the real test of the Strategy's success lay in its effective implementation and its adaptability to the challenges on the ground. Her delegation looked forward to the review process, in the hope that substantial elements that had been suggested in the Secretary-General's report but omitted from the Strategy would be reconsidered and incorporated in the Strategy in the future.

64. In view of the importance of strengthening State capacity to combat terrorism, an inter-ministerial committee in Israel had been working on a comprehensive anti-terrorism bill, the aim being to address the dilemma of combating terrorism while safeguarding human rights, including those of suspected terrorists. In that connection, she agreed with the representative from Cameroon that the professional forum of the Sixth Committee was not an appropriate venue for a political debate. She urged the Committee to continue with its open and candid discussions.

65. Lastly, she emphasized that the absence of a consensus definition of terrorism undermined the legitimacy of United Nations efforts to deal with the threat. Important though it was to conclude the draft comprehensive convention, no decision should be reached at the expense of diluting the principles that would make it an effective tool in the fight against terrorism. There was a need for legal precision but an even greater need for moral clarity.

66. **Mr. Muhumuza** (Uganda) said that Uganda condemned terrorism in all its manifestations; it could never be justified under any circumstances. Uganda therefore welcomed the entry into force of the International Convention for the Suppression of Acts of Nuclear Terrorism in July 2007. Although Uganda commended the work of the Committee established pursuant to the adoption of Security Council resolution 1540 (2004) aimed at preventing the proliferation of weapons of mass destruction, it was concerned that the Committee's efforts might be undermined by the dumping of toxic waste, as had occurred off the coast of Somalia, since such dumping could provide terrorists with a source of nuclear material.

67. Uganda urged all Member States to build on the momentum attained with the adoption of the United Nations Global Counter-Terrorism Strategy, while bearing in mind the vital need to address the root causes of terrorism. Combating terrorism implied taking hard decisions, including adopting a comprehensive definition of that phenomenon. Only then would terrorists be exposed for what they really were and be unable to hide under the cover of a legitimate struggle.

68. **Ms. Coelho** (Angola) said that terrorism had been escalating over the past decade and constituted a serious threat to global peace and development. Concerted efforts at the national, regional and international levels were needed to address the problem. The adoption by consensus of the United Nations Global Counter-Terrorism Strategy was an

example of the international cooperation that was crucial in that area. It was now essential to finalize the draft comprehensive convention, the most important counter-terrorism initiative stemming from the 2005 World Summit that was still outstanding.

69. At the regional level, Angola had been participating in activities carried out by southern African organizations, such as the Organ on Defence, Politics and Security Cooperation of the Southern African Development Community and the Southern African Regional Police Chief Council Organization. It had also ratified the OAU Convention on the Prevention and Combating of Terrorism.

70. **Ms. Sarne** (Philippines) said that her country had consistently maintained that peace and security were indispensable to its economic growth and stability and that terrorist acts were a direct threat to the welfare and well-being of its people. With a view to securing the Asia-Pacific region from terrorism, it had spearheaded the creation of the Asia-Pacific Economic Cooperation Counter-Terrorism Task Force and had joined with the Association of Southeast Asian Nations in adopting a Convention on Counter Terrorism. Determined to uphold the rule of law and the fundamental rights and freedoms that terrorists sought to destroy, the Congress of the Philippines had adopted the Human Security Act in March 2007.

71. Believing that terrorism was rooted in poverty and injustice and could not be fought with military strength alone, the Philippines had embarked upon a strategy to strike at the causes of terrorism, based on peace through dialogue, understanding and development. It had been one of the sponsors of the recent High-level Dialogue on Interreligious and Intercultural Understanding and Cooperation for Peace. In the Philippine experience, interfaith dialogue, economic aid and social justice were powerful instruments against extremism and terrorism.

72. The Philippines implemented its programme to combat terrorism in keeping with the United Nations Global Counter-Terrorism Strategy. Her delegation commended the work of the Ad Hoc Committee established by General Assembly resolution 51/20 in dealing with the outstanding issues that impeded consensus on the draft comprehensive convention on terrorism and was ready to work towards the conclusion of that instrument.

73. **Ms. Blane** (Palau) said that Palau had, for many years, participated actively in United Nations efforts to counter international terrorism and supported the adoption of the United Nations Global Counter-Terrorism Strategy. It looked forward to the conclusion of negotiations on the draft comprehensive convention on international terrorism.

74. Palau had signed twelve of the international conventions against terrorism and had completed its reports pursuant to Security Council resolutions 1267 (1999), 1373 (2001) and 1624 (2005). It was nearing completion of its report pursuant to Security Council resolution 1540 (2004).

75. Palau had adopted a detailed and comprehensive regime of legislation to combat money-laundering and the financing of terrorism, but, being a small developing country, it lacked the necessary capability and resources to ensure that violations of that legislation were systematically investigated and prosecuted. It therefore welcomed statements made in the Sixth Committee to the effect that there were countries committed to providing assistance to developing countries in their fight against terrorism. However, assistance should expand beyond help with legislative drafting and focus on the problems of enforcement, including the provision of financial and technical assistance. Capacity-building should remain at the forefront of United Nations concerns.

76. All States should work together to eradicate terrorism, bearing in mind that it was not only a global concern but also a local one. Until all areas and regions were free from terrorism, none would be.

77. **Mr. Adamou** (Niger) said that, despite its overwhelming priorities relating to economic and social development, his country had always condemned terrorism in all its forms and manifestations and had participated in efforts to eradicate that scourge, which was a threat to international peace and security. It had established a national committee to combat terrorism, made up of representatives of various State structures and of civil society, and had ratified a number of major legal instruments on terrorism. However, the African countries needed assistance from the international community if they were to be able to fulfil their obligations under those instruments.

78. The best way to combat terrorism was to take a global and coordinated approach, which should not link terrorism to a particular religion or belief but rather

analyse its root causes, including intolerance, poverty, and despair. It was ill-considered and unjust to associate Islam with terrorism, especially since terrorists indiscriminately attacked both Muslim and non-Muslim countries. The mass media should demonstrate responsibility in the way they handled information on terrorism.

79. He urged Member States to spare no effort to finalize the draft comprehensive convention on terrorism. The adoption of such a text would result in a clear definition of terrorism, thus helping to avoid abuses in the fight against that scourge, which must be carried out in strict accordance with the rule of law and respect for human rights.

80. **Ms. Ragg** (The International Criminal Police Organization (INTERPOL)) said that Security Council resolution 1373 (2001) and the United National Global Counter-Terrorism Strategy both stressed the need for enhanced information sharing and cooperation between Member States and with regional, subregional, and other international organizations. In that connection, INTERPOL had created a special Fusion Task Force in September 2002 to provide a forum for counter-terrorism experts to exchange information, including operational information and best practices. The primary objectives of this Task Force were to provide analytical support and identify active terrorist groups and their membership, organizational hierarchies, and methods of training and financing. INTERPOL's worldwide law enforcement network guaranteed an ideal framework for the sharing of relevant and accurate data about suspected criminals and criminal activities, as did its secure global communications system that allowed for the transmission of information.

81. INTERPOL had also developed a broad range of global databases for use by its member countries. Another important tool in the fight against international terrorism was its colour-coded Notices system, which alerted member countries about the movements of known or suspected international criminals. Of particular significance was the INTERPOL-United Nations Security Council Special Notice, created in 2005 in close cooperation with the Security Council Committee established pursuant to resolution 1267 (1999) to inform INTERPOL member countries about individuals subject to United Nations sanctions.

82. Since terrorists and other serious criminals often used false documents to travel, INTERPOL had created in 2002 a database of stolen and lost travel documents whose importance had been acknowledged in Security Council resolution 1617 (2005) and the United Nations Global Counter-Terrorism Strategy.

83. INTERPOL was an active partner in the United Nations Counter-Terrorism Task Force; it participated as a supporting entity in a number of its working groups and as one of the leading entities in the Working Group on Protecting Vulnerable Targets. It continued to support the Counter-Terrorism Committee Executive Directorate and had been involved in almost all its country evaluation visits. It would participate actively in that Committee's forthcoming fifth special meeting on "Prevention of Terrorist Movement and Effective Border Security". Given its important role in the fight against terrorism, INTERPOL would like to encourage Member States to consider recognizing it, along with other regional and international organizations, in the resolution on measures to eliminate international terrorism to be presented to the sixty second session of the General Assembly

84. **Ms. Thomas** (Cuba), speaking in exercise of the right of reply, said that Luis Posada Carriles was only charged with fraud and lying to the United States immigration authorities and was not being brought to justice for being a well-known international terrorist responsible for the bombing of a Cubana de Aviación aircraft that had killed 76 innocent civilians. He had not appeared before a court to answer charges of being involved in attacks against tourist installations in Havana in 1997 and in dozens of planned assassination attempts against President Fidel Castro, financed by the Government of the United States. The Government of Cuba had evidence to substantiate its accusations because the author of those acts had confessed publicly. The Government of the United States likewise had that evidence.

85. It was a disgrace for international law, undermining all the efforts of the international community to combat terrorism, that the Government of the United States continued to protect the best-known international terrorist in the Western hemisphere on the basis of legalistic arguments. As long as those actions remained unpunished, Cuba would continue to call for justice and an end to double standards in the fight to rid the world of the scourge of terrorism.

The meeting rose at 5.40 p.m.

United Nations

A/C.6/62/SR.6

General Assembly
Sixty-second session

Official Records

Distr.: General
6 November 2007

Original: English

Sixth Committee

Summary record of the 6th meeting
Held at Headquarters, New York, on Monday, 15 October 2007, at 10 a.m.

Chairman: Mr. Tulbure. . . . . (Moldova)

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The meeting was called to order at 10.10 a.m.

Agenda item 80: Criminal accountability of United Nations officials and experts on mission (A/60/980, A/62/54, A/62/329)

1. **Ms. Telalian** (Greece), speaking as Chairperson of the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission, introduced the report of the Ad Hoc Committee (A/62/54). Prepared in the wake of serious allegations of sexual abuse and exploitation in peacekeeping operations, it contained in an annex an informal summary of the Committee's discussions. The issues addressed concerned the extent of the problem, the categories of United Nations personnel to be covered (scope *ratione personae*), the crimes to be covered (scope *ratione materiae*), the bases for assertion of jurisdiction over alleged offenders, and the question of investigations and cooperation among States and between States and the United Nations. The question of the elaboration of a further instrument had been deferred. A number of concerns had been raised by delegations during the discussions, to which the note by the Secretariat (A/62/329) provided a response. She welcomed the establishment of a working group to continue consideration of the report of the Group of Legal Experts (A/60/980), in accordance with the recommendation of the Ad Hoc Committee, and hoped that it would make headway in responding to a problem of acute importance to the United Nations.

2. **Mr. Michel** (Under-Secretary-General for Legal Affairs, the Legal Counsel) said that the importance attached by the Secretariat to the item under consideration was reflected in the presence at the current meeting, alongside himself, of senior representatives of the Office of Internal Oversight Services, the Department of Peacekeeping Operations and the Department of Field Support. Indeed, it was a matter that involved the core values of the Secretariat as the administrative and executive arm of the Organization.

3. The United Nations did not and could not condone criminal conduct by its officials and experts on mission. Such conduct, although it concerned only a minority, directly affected the operational activities and essential mission of the Organization. The gravity of the problem could not be measured by statistics alone, which in any case were lacking, but also by the suffering caused to victims and their families, the potential damage to the Organization's credibility and reputation and hence to its ability to discharge its mandate, and the threat that such conduct might bring to the physical security of United Nations personnel in general. Moreover, failure to prosecute offenders created an impression of impunity, which would aggravate the negative effects of such criminal acts. The international community must therefore make a resolute and serious effort to address the problem in a timely and efficient manner.

4. The note by the Secretariat (A/62/329) set out short-term and long-term measures to that end. It expressed support for the recommendation by the Group of Legal Experts that a new international convention should be elaborated in order to address the current jurisdictional gap. Such a gap was liable to occur when a host State could not properly exercise its jurisdiction over the alleged offender, while other States had not extended their jurisdiction to cover crimes committed in a host State. Since, barring an executive mandate, the United Nations could not fill that gap, Member States needed to be provided with appropriate bases for the establishment of their jurisdiction, through the adoption of an international convention. While making it clear which United Nations personnel would be subject to such jurisdiction, and for which crimes, such a convention would also provide mechanisms for enhanced international cooperation, particularly in regard to extradition, as well as cooperation between Member States and the United Nations, notably regarding the use by Member States in criminal proceedings of material provided by the United Nations; it could also be instrumental in ensuring the integrity of evidence.

5. Exercise of jurisdiction by a host State was by no means to be discouraged. However, in exceptional situations where a host State could not exercise its criminal jurisdiction efficiently by meeting the basic requirements of due process and preserving the rights of the victim and the alleged offender, other States would be empowered by such a convention to assert and exercise their jurisdiction. The essential criterion would be the fact of the alleged offender's operating in a conflict or post-conflict context in which the criminal judicial system had collapsed or might be impaired. While the convention would apply to all persons participating in United Nations operations, and not just peacekeeping operations, the military members of national contingents, who were subject to the exclusive

jurisdiction of the sending State, would be excluded from its scope. By the same token, military observers, who served the United Nations in a personal capacity and not as representatives of their State, would, as "experts on missions for the United Nations" within the meaning of article VI of the 1946 Convention on the Privileges and Immunities of the United Nations, come within the scope of the convention. The crimes to be covered should not be determined according to their nature, but rather by reference to a particular level of punishment that would thereby be incurred in a State that was able to assert jurisdiction.

6. Pending the adoption of an international convention on the subject, the General Assembly might wish to adopt a resolution urging States to exercise their criminal jurisdiction at least over their nationals alleged to have committed, in the course of a United Nations operation, an act considered to be a crime under their existing criminal laws and also under the laws of the host State. In addition, such a resolution could encourage cooperation between Member States and the United Nations in the sharing of information and the gathering of evidence. Other short-term measures could consist in preventive action in the form of predeployment training and increasing awareness of accountability for criminal conduct.

7. **Mr. Kemp** (Australia), speaking on behalf of the CANZ group (Australia, Canada and New Zealand) said that the Committee's work on the criminal accountability of United Nations officials and experts on mission was but one part of a broader United Nations response to the issue. The CANZ delegations welcomed the Organization's efforts in support of a policy of zero tolerance for sexual exploitation and abuse; they acknowledged the good work of the Secretary-General in establishing a bulletin on special measures for protection from such acts (ST/SGB/2003/13); and they welcomed the introduction since August 2005 of conduct and discipline teams in United Nations peacekeeping operations.

8. Where prevention failed, Member States and the United Nations had a shared responsibility to hold offenders accountable, and not only members of national contingents. Accordingly, the Committee needed to consider ways of ending impunity for criminal conduct by other United Nations personnel. The CANZ group supported the principle of an international convention that would require Member States to exercise jurisdiction over their nationals participating in United Nations operations abroad. Such a convention could also serve to facilitate international cooperation in the operation of criminal laws, in particular for extradition and mutual legal assistance in criminal matters, thereby enabling States to investigate more effectively crimes alleged to have been committed by their nationals in the context of a United Nations operation.

9. The CANZ delegations agreed that, while the measures to be adopted should apply to all personnel participating in United Nations operations overseas in whatever capacity, there was no need to include military members of national contingents and military experts on mission, as they were covered by their own national and military laws. They considered, however, that the establishment of quasi-universal jurisdiction, under which a State would be obliged to investigate and, where appropriate, prosecute alleged offenders if they failed to extradite them, was perhaps a broader approach than what was needed to address the current problem. In any case, the content of the new treaty would require considerable further negotiation. In the meantime, the CANZ group supported the short-term measures recommended by the Secretariat to fill the jurisdictional gap, in particular the adoption of a General Assembly resolution on the subject.

10. **Mr. Madureira** (Portugal), speaking on behalf of the European Union; the candidate country the former Yugoslav Republic of Macedonia; the stabilization and association process countries Albania, Montenegro and Serbia; and in addition, Armenia, Georgia, Moldova and Norway, said that any person participating in a United Nations operation who committed a serious crime should not go unpunished and must be held accountable for such conduct. The challenge was to find the best way of overcoming obstacles to their accountability, in accordance with the principles of rule of law, due process and human rights and in conformity with the United Nations Charter.

11. Member States should work with the Organization to ensure that the special status of United Nations officials and experts on mission did not exempt them from being held accountable for criminal acts, particularly in situations where the host State was unable to prosecute them. The Organization should give a clear political signal that it would not tolerate criminal misconduct and that it would actively work for the prevention and prosecution of any such act.

12. The European Union believed that one way of filling the jurisdictional gap referred to would be to encourage States to establish, assert and exercise criminal jurisdiction over their nationals participating in United Nations operations who committed serious crimes in a host State. It supported the elaboration of a General Assembly resolution to that end, which should provide a framework for identifying the measures to be taken. The resolution should also encourage Member States and the Organization to cooperate in sharing information, gathering evidence and ensuring the availability of witnesses; such cooperation could facilitate the exercise of jurisdiction by the State of nationality.

13. The European Union recognized, however, that short-term measures might well not suffice and it stood ready to continue further work on the issue, by examining in greater detail the merits and content of the proposed draft convention, including its interaction with other relevant instruments. It supported the convening of an ad hoc committee for further consideration of the matter. Such a convention would have the advantage of identifying clearly the circumstances in which Member States could exercise jurisdiction and the categories of personnel and types of crime to which such extraterritorial jurisdiction should apply. It would also facilitate international cooperation and cooperation between States parties and the Organization. The European Union believed that the Organization's response to the problem should be comprehensive and resolute and aim at enhancing the credibility and effectiveness of United Nations operations.

14. **Ms. Vargas Walter** (Cuba), speaking on behalf of the Non-Aligned Movement, said that the criminal accountability of United Nations officials and experts on mission was a subject of prime importance. She drew attention to the great sacrifices and tremendous contribution being made by peacekeepers around the world, 80 per cent of whom hailed from non-aligned countries. Since all United Nations staff must perform their duties in a manner which preserved the image, credibility, impartiality and integrity of the Organization, a policy of zero tolerance must be applied to all cases of misconduct, including sexual exploitation and abuse. The efforts being made by the Special Committee on Peacekeeping Operations to secure the adoption of a memorandum of understanding between the United Nations and troop-contributing countries were therefore commendable.

15. While she hoped that that the Sixth Committee would pursue its consideration of the report of the Group of Legal Experts on ensuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations (A/60/980), it would be premature to discuss the possibility of drafting a convention on the subject. Instead the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission should concentrate on substantive issues and leave questions of form until a later stage. Aspects requiring further clarification included the definition of the scope of application and the meaning of the term "United Nations officials and experts on mission", the determination of the types of crimes for which those persons could be held criminally accountable, and jurisdiction. A host State should not be precluded from exercising jurisdiction merely because the peacekeeping operation was taking place in a post-conflict area. Lastly, she hoped that the Ad Hoc Open-ended Working Group on Assistance and Support to Victims of Sexual Exploitation and Abuse would soon produce substantial results.

16. **Mr. Bichet** (Switzerland) said that while the various tasks performed by United Nations personnel on mission throughout the world were invaluable for the establishment of lasting international peace and security, over the previous 10 years that exemplary record had been tarnished by the misconduct of a handful of individuals. Unfortunately, it had proved difficult to call them to account for the offences they had committed while on mission. For that reason, it was not only essential to prevent the commission of such crimes, but also crucial to end the impunity of the perpetrators. In fact, their prosecution was a duty to the population of the host State and a means of avoiding the permanent sullying of the Organization's reputation.

17. The drafting of a new international convention to fill in gaps in States' jurisdiction and settle some other related matters would supply a firm legal basis making it possible to waive the immunity currently enjoyed by the United Nations if the need arose, although that immunity regime would not be endangered by such a convention. It would be best to adopt an action-oriented approach based on the proposal of the Group of Legal Experts.

18. In the absence of a special regime, the host State was primarily responsible for bringing proceedings in respect of an offence committed in its territory, but when it was unable to do so, that responsibility then fell to the sending State, in accordance with the active personality principle already embodied in a number of treaties, which should likewise apply to the criminal accountability of United Nations officials and experts on mission. All States were under a moral obligation to both the victims and the nationals of the host State to take the necessary steps to ensure that they could prosecute their own nationals for any offence they had committed while on mission, even if that meant amending their national legislation. The difficulties faced by some sending States in that respect ought to be discussed.

19. As the mandate of the Group of Legal Experts had been to study the criminal accountability of United Nations officials and experts on mission, the tendency to completely exclude military personnel in national contingents from the ambit of any future convention on the subject was worrying. It would be wise for such a convention to contain legal rules applicable to all persons involved in peacekeeping operations, whatever the nature of their activities, although those rules should not necessarily be identical for all categories of personnel. If military contingents were to be excluded from the scope of application of a convention, any attempt to protect victims' rights and the interests of States and the United Nations would be futile, because experience had shown that when criminal offences were committed during peacekeeping operations, soldiers were the most likely culprits. For that reason, a convention should be drafted which provided that States had criminal jurisdiction over crimes committed by their military contingents assigned to peacekeeping operations. That would be a supplementary obligation which was, however, necessary for the effective implementation of existing and future agreements on the status of missions and forces. That status would clearly not be affected by such a convention.

20. Since close collaboration and smooth communication between States themselves and between States and the United Nations were crucial, it would be advisable to provide a legal basis guaranteeing that States informed the United Nations of all cases falling within their criminal jurisdiction and the competence of their courts. As the drafting of a new convention would require some time, the most sensible interim solution would be to endorse the Secretariat's proposal contained in its note (A/62/329), namely that the General Assembly should adopt a resolution urging Member States to extend their jurisdiction to cover their nationals who committed serious crimes as defined in their existing domestic criminal laws.

21. Lastly, he expressed support for the recommendation that a working group should be established with a view to continuing the consideration of the report of the Group of Legal Experts, focusing on its legal aspects and, taking into account the views expressed in the Ad Hoc Committee

22. **Ms. Negm** (Egypt) said that her country attached great importance to the subject of criminal accountability; many of its nationals were involved in United Nations peacekeeping activities and it firmly believed in the significant role the United Nations played in the maintenance of international peace and security. It consequently supported the Organization's efforts to preserve its public image and had faith in the zero tolerance policy maintained in addressing all cases of sexual exploitation and abuse committed by peacekeeping personnel. To that end, it was vital to identify any existing gaps and explore better ways of dealing with and avoiding wrongdoing. The allegations in such cases should, however, be carefully examined, as they were frequently unsubstantiated by reliable evidence, thus giving rise to the possibility of false accusations and unlawful claims for compensation. It was also important to consider the jurisdiction exercised by States which contributed experts and officials to peacekeeping operations, with the aim of establishing criteria for trials involving extraterritorial crimes, particularly in situations where the host State was unable to exercise jurisdiction over crimes committed within its territory, in accordance with the status-of-forces agreement signed with the United Nations. If the criterion of nationality or permanent residence was regarded as the determining factor, responsibility for prosecution and trial lay with the sending State. Other criteria, including territorial jurisdiction and the guarantee of justice, should likewise be taken into account.

23. All elements relating to the criminal accountability of United Nations experts and officials on mission, in particular the definition of such experts, conditions for immunity and the level of cooperation between States and the United Nations, should be

comprehensively examined before any idea of a new legal instrument was entertained. In that context, she stressed that military experts should be treated in the same way as military personnel of national contingents assigned to peacekeeping operations insofar as both were subject to the military law of their State of nationality. Egypt had extended its military and criminal laws to include the prosecution of Egyptians who committed crimes abroad, the aim being to close all legal loopholes concerning the participation of any of its nationals as United Nations experts or officials on mission.

24. Close cooperation with the Special Committee on Peacekeeping Operations was essential in order to avoid duplication of work. In addition to pinpointing all gaps and obstacles in the existing system, it was also important to identify possible measures for strengthening the rules of criminal prosecution in troop-contributing countries in order to ensure the just punishment of those of their nationals who committed crimes abroad.

25. **Ms. Rodríguez-Pineda** (Guatemala) said that that the scope *ratione personae* of any rules on the criminal accountability of United Nations officials and experts on mission should apply to all persons assigned to peacekeeping operations, irrespective of the department, organ or programme from which they are assigned and, possibly, at a subsequent stage, to all United Nations personnel at Headquarters and in the field.

26. His delegation had already expressed concern about how to deal with cases involving experts on military missions. One option might be to amend the guidelines on disciplinary measures against such officials so that they covered that category of personnel, along the lines of the changes which the Special Committee on Peacekeeping Operations had recently introduced to the memorandum of understanding between the United Nations and troop-contributing countries.

27. As for jurisdiction *ratione materiae*, the crimes under discussion were, by their very nature, qualified as offences in the penal code of every State. Paragraph 6 of the model status-of-forces agreement for peacekeeping operations stipulated that all members of peacekeeping operations must respect all local laws and regulations. Hence all acts usually regarded as crimes under national criminal law should be deemed breaches of the standards of conduct applicable to United Nations personnel and officials. Another deciding factor should be the impact of the misconduct. In that respect, a distinction should be drawn between crimes producing an effect outside the mission on the local population of the host State and which therefore affected the Organization's image, as opposed to those committed against or within the Organization. The Committee's deliberations must not be confined to crimes related to sexual abuse and exploitation, but must encompass crimes against the person, against the cultural heritage, against the public authorities, against safe passage, and misappropriation of funds.

28. The bases for jurisdiction raised issues of immunity as well as those of jurisdiction. The principle of unrenounceable territorial jurisdiction meant that, even in the event of competing jurisdictions, the host State must have priority in keeping with its sovereignty and the rule of law. Jurisdiction based on nationality was restricted by the double criminality requirement and the fact that national criminal law did not apply extraterritorially. Nor did it appear possible to rely on universal jurisdiction for ordinary crimes. The related subject of immunity, which was extremely complicated and technical, would, however, have to be addressed, because the Charter provided solely for functional immunity and no kind of crime formed part of the functions of any official or expert on mission. A lack of uniformity thus existed with regard to the waiving of immunity and to the determination of its source. She therefore suggested that either the Sixth Committee or the International Law Commission should study ways of harmonizing practice in respect of immunity in order to preclude impunity.

29. The model status-of-forces agreement might also be in need of revision with a view to facilitating jurisdiction and enhancing cooperation through the appending of annexes providing for cooperation with the host State in judicial and police inquiries. In fact, the efficacy of the measures adopted by the Committee would hinge on cooperation between States and the United Nations, between various departments of the Organization, and, above all, between States. Cooperation in investigations was particularly important, since many countries, including her own, regulated extradition solely through treaties. For that reason, thought should be given in the future to the drafting of a model instrument resting on the principle

of *aut dedere aut judicare* which States could adopt bilaterally.

30. It was too early to decide what form should be taken by the instrument on the criminal accountability of United Nations officials and experts on missions; there were many possibilities besides a multilateral convention which would, in any case, be binding only on the parties to it.

31. **Mr. Ma** Xinmin (China) said that ever since 1948, when the first peacekeeping mission had been established, United Nations peacekeeping operations had played a central role in maintaining world peace and stability, thereby contributing to post-conflict rehabilitation and development. Tens of thousands of peacekeepers from over 100 countries had carried out their duties in foreign lands under dangerous and harsh conditions. But although their dedicated service had earned them broad support and deep appreciation from the international community, recent criminal acts by a few United Nations officials on mission were damaging the credibility of peacekeeping operations and undermining their effectiveness. Calling the perpetrators to account would restore that credibility and effectiveness and help to win the hearts of the population in mission areas.

32. Before proceeding any further with the topic, it would, however, be necessary to ascertain the prevalence and severity of the crimes committed by peacekeepers, the methods used to deal with those offences in the past, the effectiveness of those measures and the proportion of cases deemed serious enough to lead to prosecution and indictment.

33. Turning to the thornier question of the terms for exercising jurisdiction and the scope of jurisdiction, he said that the punishment of criminal activities should not hamper United Nations officials and experts in the fulfilment of their peacekeeping mandate. It was therefore imperative to abide by the principle of criminal jurisdiction set forth in the Convention on the Privileges and Immunities of the United Nations. The only acts which should be punished should be those falling outside the scope of the immunities accorded to United Nations officials and experts for the purpose of conducting their official duties. It was also important to take account of the relevant laws of the host State and the State of nationality of the official or expert, as well as the pertinent provisions of international humanitarian law.

34. The primary goal of establishing jurisdiction was to ensure that crimes would be punished, justice upheld and victims compensated. The host State should be given priority in exercising jurisdiction over criminal acts by United Nations personnel, but when it was unable to exercise such jurisdiction, or when it was more convenient for the State of nationality of the alleged offender to do so, priority should be given to that State. Nevertheless, the State of nationality should retain exclusive jurisdiction over police officers, military observers, liaison officers and advisors seconded to United Nations peacekeeping missions.

35. It was vital to improve international cooperation, to bolster judicial cooperation among host States, States of nationality and the United Nations, to establish the requisite judicial assistance mechanisms and to work together to punish crimes committed by United Nations personnel. It should be made plain that military personnel from national contingents would not be subject to the type of punishment under discussion. Despite the existence of a consensus on the need to end impunity, it was unclear whether the goal of securing criminal accountability would be best served by drafting an international convention, adopting a General Assembly resolution or calling on the States concerned to strengthen their domestic legislation. It was, however, evident that the United Nations itself should improve its internal oversight, prevention and disciplinary mechanisms if an optimal solution was to be reached.

36. **Mr. Maharia** (India) said it was a matter of great concern that, despite the existence of clear codes of conduct for United Nations peacekeepers and a policy of zero tolerance, cases of sexual abuse and exploitation and other criminal acts were still being reported. They tainted the image not only of the United Nations, but also of the sending States. Since United Nations peacekeepers were sent on humanitarian missions in areas riven with conflict in order to restore the rule of law, curb violence and promote good governance, it was regrettable if they did not themselves observe the law. United Nations personnel who violated the Organization's codes of conduct must be called to account. For that reason, it was essential to ensure that United Nations personnel were neither exempt from the consequences of crimes committed at their duty station, nor unjustly penalized.

37. In order to bridge jurisdictional gaps, his Government was in favour of a General Assembly

resolution along the lines of that proposed in the Secretariat's note (A/62/329), which would fulfil the requirement of double criminality. It was also prepared to consider other short-term measures, such as the inclusion in Security Council resolutions on peacekeeping missions and in the memorandum of understanding with troop-contributing countries of language to the effect that Member States must ensure accountability. A convention was not the only remedy for gaps in the current system, which could be plugged by the short-term measures suggested in the Secretariat note, or through the development of a model law as advocated by the Group of Legal Experts. Many States, including India, already exercised jurisdiction over their nationals for crimes they had committed outside their territory and they did not therefore need a convention for that purpose. If a small number of States did not assert extraterritorial jurisdiction over ordinary crimes, more focused efforts should be directed at those countries.

38. As for scope *ratione personae*, it might be hard under national laws to treat military observers in a manner different from members of national contingents. Another difficulty inherent in the proposal of the Group of Legal Experts stemmed from the fact that it recommended that the host State should itself establish criminal jurisdiction. While that suggestion was consistent with the principle of territoriality, in some situations legal and law-enforcement machinery might be weak or non-existent and the remedies advocated by the Secretariat for such deficiencies might not result in the production of reliable, credible or legally admissible evidence.

39. Since the process of adopting a binding international treaty or convention could well be lengthy, it would be wise at the current juncture first to implement short-term measures and assess their efficacy and only then to decide whether long-term measures were needed.

40. **Mr. Tuglo** (Indonesia) said that the brave men and women of United Nations peacekeeping operations served in dangerous locations and they epitomized the finest United Nations traditions. But while the majority of United Nations officials and experts, including peacekeepers, behaved in an exemplary fashion, the criminal acts perpetrated by a few of them while on mission jeopardized not only the Organization's image and reputation, but also local communities' trust in it. For that reason, criminal misconduct by United Nations personnel could not be tolerated, but must be dealt with in criminal proceedings guaranteeing due process, a fair trial and the rule of law. One of the surest ways of consolidating the zero-tolerance policy against sexual exploitation and abuse and other serious crimes was through proper training and awareness raising at the predeployment stage and at frequent intervals during operations.

41. Further clarification of the proposed measures' scope *ratione personae* and *ratione materiae* was required. As far as the exercise of jurisdiction was concerned, it was necessary to avoid duplicating existing mechanisms governed by the relevant conventions on the privileges and immunities of United Nations officials and experts and to make sure that there was no inadvertent conflict with the status-of-forces agreement for peacekeeping operations concluded between troop-contributing countries and the United Nations prior to assignment or deployment. Military observers, who were regarded as experts on mission, should be excluded from the scope of application of the proposed regulations and any criminal acts they committed should be taken up with the troop-contributing country concerned. It was important to strengthen cooperation between host States, States of nationality and the United Nations to ensure that justice was done.

42. **Mr. Mansour** (Tunisia) said that his country, while recognizing the contribution and sacrifices made by United Nations peacekeepers, attached great importance to preserving the image, credibility and integrity of the Organization and fully supported the policy of zero tolerance for acts of sexual exploitation and abuse committed by peacekeeping personnel. Certainly, the perpetrators of such acts must not go unpunished, but further study was needed in order to ascertain the extent of the problem and decide on the best way of approaching it. In particular, the idea of drafting a convention on the subject should be examined in greater depth in order to determine whether it was the most appropriate means of filling the existing judicial gap. Other approaches, such as adopting model legislation or adopting a General Assembly resolution calling on States to enact legislation allowing the exercise of extraterritorial jurisdiction, might also be envisaged.

43. Whatever approach was chosen, his delegation took the view that military observers and civilian police should be excluded from the scope of any future

legal instrument; rather, like members of national military contingents, they should remain under the military jurisdiction of the sending State. At the same time, Tunisia favoured a broader scope of application for the proposed instrument, encompassing personnel from the various United Nations programmes and specialized agencies and other activities in the field. It also supported expanding the scope *ratione materiae* to include crimes other than sexual exploitation, including theft, fraud, money-laundering and torture.

44. **Mr. Mukongo Ngay** (Democratic Republic of the Congo) observed that demand for the intervention of the United Nations in peacemaking and peacekeeping operations had grown steadily in recent years. Peacekeeping troops often served under dangerous and unstable conditions, and his delegation wished to express its gratitude to the States that had provided such troops over the years. Unfortunately, their exemplary work had been tainted by the scandalous conduct of some individuals. The 2004 revelations of sexual abuse and exploitation by a substantial number of peacekeepers in his country, for example, had greatly sullied the image of United Nations peacekeeping. His delegation believed that no one was above the law and that United Nations officials and experts on mission who had committed crimes while involved in peacekeeping operations should be held to account for their conduct.

45. However, his country's experience had shown that the domestic courts had difficulty in exercising criminal jurisdiction over United Nations personnel accused of engaging in acts of sexual exploitation and abuse or other crimes, such as illicit trafficking of precious materials. The problems stemmed from weaknesses in the justice system, exacerbated by years of war, and from the according of special immunities and privileges to United Nations officials and experts on mission. It appeared that it was often difficult for the Secretary-General to waive the immunity of personnel accused of committing serious offences in cases in which the judicial institutions in the host country were not deemed to meet minimum international human rights standards. Rehabilitation of the justice system in post-conflict societies should therefore be a priority.

46. His delegation, while affirming the primacy of the legitimate and sovereign right of the host country to exercise jurisdiction in respect of crimes committed in its territory, was open to the idea of the exercise of jurisdiction by the sending State in order to avoid impunity — in collaboration with the host State, of course, particularly with regard to investigations and extradition. It had to be recognized, however, that such collaboration would often be limited by the reluctance of sending States to admit publicly to misconduct by their troops or to institute court-martial proceedings against them.

47. The aforementioned difficulties confirmed the existence of a jurisdictional gap which could not be filled by status-of-force agreements alone. His delegation therefore supported the negotiation of an international convention which would enable Member States to assert their jurisdiction over crimes committed in a host State when that State was unable to take the necessary action. The Sixth Committee should collaborate with the Fourth Committee and with the Special Committee on Peacekeeping Operations in the work to be undertaken on such a convention.

48. The evidence collected through administrative investigations conducted by the Office of Internal Oversight Services could serve as information, although it could not form the basis for action by the prosecuting body. The scope *ratione materiae* of a future convention should not be limited to sexual exploitation and related offences, but should extend to crimes of an economic nature, such as illicit trafficking in drugs and precious materials. The notion of "serious crimes" must be clearly defined. Given the disparities in national legislation, his delegation did not believe that the severity of the penalty prescribed would be an objective criterion for determining whether or not an offence constituted a serious crime.

49. Regarding the scope *ratione personae*, he sought clarification of the basis for the distinction between the legal regime covering military personnel employed by the United Nations as experts on mission and the regime covering United Nations officials and experts on mission, as that distinction was crucial for delimiting the scope of the convention. Lastly, his delegation endorsed the recommendation by the Group of Legal Experts concerning predeployment awareness training and induction training for peacekeeping personnel, and encouraged the Special Committee on Peacekeeping Operations to continue developing a victims assistance policy.

50. **Ms. Chavanart** (Thailand) said that Thailand fully supported the policy of zero tolerance for all

misconduct by United Nations personnel. The increasing number of cases of impunity was partly due to a lack of sufficient political will to prosecute those responsible for crimes committed in the course of peacekeeping operations. Given the complex nature of the issue and the need for further clarification of a number of matters, her delegation shared the view that the Committee should focus on substantive matters at the current stage rather than on the form of the instrument required to translate Member States' opinions into action.

51. Her delegation was convinced that a first step in dealing more effectively with misconduct by United Nations peacekeepers was to reconsider the issue of immunity, using Article 105 of the Charter of the United Nations as a basis. The question was whether such immunity should be waived when there was a serious breach of the law. The United Nations should perhaps begin by considering the possibility of revising the immunity provision under its model status-of-forces agreement. Narrowing the immunity of United Nations peacekeeping personnel to exclude acts — whether or not committed during the course of official duty — that seriously violated human rights and criminal law, except in circumstances of self-defence, would help not only to increase the level of accountability of United Nations personnel and its experts on mission but also to uphold the rule of law and the provisions of the Geneva Conventions.

52. Thailand also considered it necessary to undertake further study of the criminal accountability of United Nations personnel who committed crimes not in the State in which they were serving as members of a peacekeeping mission, but in a place of recreational visit or temporary stay. For instance, in 1992 a member of the United Nations Transitional Authority in Cambodia had entered Thailand temporarily and through reckless driving had caused the death of a Thai national.

53. Concerning the form of a future legal instrument, the suggestion by the Group of Legal Experts to develop a convention in order to bridge the jurisdictional gap merited careful consideration. If it was decided to proceed with a convention, consideration should be given to the possibility of including a provision to hold superiors jointly responsible for crimes committed by subordinates in the event that they knew or consciously disregarded information about such crimes.

54. As for the question of extradition, the requesting State should incorporate a provision in its domestic law to suspend the statute of limitations for the crime committed or to extend its prescription once the extradition procedure had commenced. In addition, countries should adopt a more flexible approach in dealing with the double criminality requirement, applying conduct-based criteria rather than correspondence of offences as the condition for determining whether or not an offence was extraditable.

55. **Mr. Riofrío** (Ecuador) reaffirmed his country's commitment to the zero tolerance policy and its conviction that perpetrators of criminal acts should be duly investigated, prosecuted and punished. However, in seeking mechanisms to avoid impunity, it was essential to uphold the principles of due process and respect for human rights. The proposal to draft a convention on criminal accountability of United Nations officials and experts on peacekeeping missions needed further analysis and should be viewed as one of several possible actions and measures, since the variety of circumstances surrounding peacekeeping missions made a "one-size-fits-all" approach impossible. Before any decision was taken to commence negotiating a treaty, serious thought should be given to the categories of personnel who would be subject to such an instrument, as it was not clear whether the wording "United Nations officials and experts on mission" proposed by the Secretariat was sufficiently broad.

56. The treatment of military observers was a matter of especial concern for his delegation. It must not be forgotten that such personnel remained members of their national armed forces on active duty and were thus subject to the military jurisdiction of the contributing State, which retained responsibility for their conduct and discipline. Although military observers rendered their services to the United Nations on an individual basis and not as members of a contingent, their participation in peacekeeping missions was considered part of their country's contribution, like the participation of police officers and administrative officials. Moreover, military observers did not receive the same treatment as civilians with regard to repatriation. On more than one occasion, a contributing country had been asked to repatriate such observers, which had been done almost immediately, whereas civilian personnel could not simply be dismissed and were entitled to periods of

notice and procedures laid down by the United Nations.

57. Consequently, his delegation was of the view that, although military observers and police had been classified as "experts on mission" under the model status-of-forces agreement, for legal purposes they should be given a status distinct from that of civilian personnel. His delegation believed that a model similar to the Model Memorandum of Understanding between the United Nations and Member States contributing resources to United Nations peacekeeping operations should be developed for military observers and police officers in order to establish the terms of their relationship with the United Nations and their legal status vis-à-vis the contributing and host countries.

58. Issues such as jurisdiction, investigation and a commitment to provide predeployment training for such personnel could be addressed under such a model as a medium-term measure, leaving the door open for future negotiations on an international instrument for all categories of personnel. The development of such a model should go hand in hand with the revision of the model status-of-forces agreement, which was in need of updating in order better to reflect the multidimensional nature of present-day peacekeeping operations.

59. There should be cooperation and coordination on the matter between the Ad Hoc Committee and the Special Committee on Peacekeeping Operations as well as between the Fourth and Sixth Committees.

60. **Mr. Álvarez** (Uruguay) said that Uruguay had considerable experience with the deployment of its national troops on peacekeeping missions and was thus in a position to contribute actively to the Working Group meetings. Uruguay reaffirmed its full support for the zero tolerance policy, not only with respect to sexual exploitation and abuse but also in cases of crimes committed by United Nations officials not assigned to peacekeeping operations.

61. Concerning the scope *ratione personae* of the proposed draft convention, his delegation believed that special consideration should be given to the situation of military observers and civilian police, who continued to be officials on active duty of the sending State and therefore should be considered as subject to its jurisdiction. Language should be added to the memorandums of understanding between the United Nations and troop-contributing countries with regard to the disciplinary policies to be applied in cases of sexual exploitation and abuse; such language might also be included in the contracts or guidelines signed by observers for each peacekeeping mission. Measures for the protection of victims should also be an integral part of the contract signed by the observer and by the sending State.

62. With regard to the scope *ratione materiae*, Uruguay would reserve comment until there was greater clarity about the nature of the legal instrument to be developed. However, his delegation felt that it would be difficult to establish a catalogue of offences to which all States parties would agree. Concerning jurisdiction, it should be exercised by the State of which the alleged offender was a national. Such an approach would ensure that criminal proceedings were instituted and that due process was followed, and, if an effective system of judicial cooperation were implemented, it would also ensure close collaboration between the concerned States in the pre-trial investigation phase. It should be borne in mind, however, that the proposed instrument might also apply to United Nations officials without functional ties to their State of nationality and who resided in third States. It would therefore be necessary to examine the extradition regimes that might be applicable to such individuals.

63. Cooperation during the investigatory stage between Secretariat authorities in the field and national authorities should be improved. Uruguay had repeatedly proposed that a national legal adviser should be appointed from the inception of an investigation in cases involving military contingents in order to ensure that the findings were consistent with the internal rules of the sending State for pre-trial proceedings in criminal cases and administrative hearings.

64. **Ms. Valenzuela** (El Salvador) said that her Government recognized the important contribution and the sacrifices made by United Nations peacekeeping personnel, but stressed that their work must be performed in a manner compatible with the Charter of the United Nations. When crimes were committed by individuals who were part of a United Nations operation, they damaged the trust that the United Nations was hoping to inspire in the local community, which hindered the Organization's ability to fulfil its mandate.

65. El Salvador supported the implementation of the short-term measures mentioned in the note by the Secretariat (A/62/329), which would strengthen the role of Member States in the exercise of criminal jurisdiction, while longer-term measures were being studied. With regard to a future convention, El Salvador had some reservations, in particular concerning the scope *ratione personae* and the scope *ratione materiae*.

66. **Ms. Naidu** (South Africa) said her delegation shared the view that there should be no impunity for United Nations officials or experts who committed crimes while on mission. If a legal vacuum existed in that regard, it must be addressed. However, it was important first to consider the existing barriers to ensuring accountability in order better to assess whether an international convention would be the most appropriate means for addressing the problem, especially since the proposal entailed a significant effort to address what might be a small subset of the larger issue concerning sexual exploitation and abuse. It might not be worthwhile to expend the resources required to develop a convention. Alternatives might also be considered, such as a General Assembly resolution calling on States to take stronger domestic action, model legislation, intensified efforts by the Secretariat to identify those States failing to take appropriate action, and awareness-raising through, for example, predeployment training. A convention should be considered only if it was determined that the jurisdictional gap was truly significant and that there were no other means of remedy. Such a determination could best be made through a debate involving both host countries and sending countries, together with input from the Secretariat.

67. **Mr. Alday González** (Mexico) said there was general agreement that it was vital to ensure that United Nations peacekeeping personnel performed their duties in a manner consistent with the purposes and principles of the Charter of the United Nations in order to preserve the Organization's credibility and impartiality. Although a number of different views had been expressed as to the best means of ensuring that those who committed crimes did not escape with impunity, a clear consensus had emerged in favour of a zero tolerance policy. In order to ensure criminal accountability, it was necessary to restructure the Organization's peacekeeping operations and to establish a clear and strict legal framework governing the acts of personnel participating in such operations.

68. The seriousness of the issue of criminal accountability of United Nations officials and experts on mission warranted the negotiation of an international convention on the subject. The draft convention elaborated by the Group of Legal Experts constituted a sound basis for negotiation.

69. With regard to the scope of application *ratione personae*, his delegation welcomed the Secretariat's suggestion that a future convention should apply to military observers, as experts on mission, and to all persons participating in United Nations operations, irrespective of the department, office, programme or fund with which they were engaged. Moreover, so as to prevent impunity and maintain the confidence of local populations in the United Nations, due consideration should be given to the Secretariat's suggestion to include in the scope of a future convention persons participating in peacebuilding and humanitarian operations, without distinction between operations conducted under Chapter VI of the Charter and those conducted under Chapter VII.

70. Turning to the scope of application *ratione materiae*, he said that a future convention should provide for extraditable offences, but should not contain a list of specific crimes to be covered.

71. Concerted efforts were required in order to address the existing legal gaps. Pending the elaboration of an international convention, which would be a long-term endeavour, the short-term measures mentioned by the Secretariat in document A/62/329 should be implemented.

72. **Ms. Mohd. Nurdin** (Malaysia) said that her delegation was concerned to ensure that the good name and image of United Nations peacekeeping missions were not tarnished through the exploitative acts of a few individuals. As a troop-contributing country from which national contingents of military, police and civilian personnel were currently deployed under the United Nations Mission in Timor-Leste and the United Nations Interim Force in Lebanon, Malaysia had a direct interest in any new measures adopted by the United Nations with regard to the criminal accountability of officials and experts on mission.

73. Malaysia had participated actively in the first session of the Ad Hoc Committee and intended to

continue contributing constructively to discussions on the matter. Basic issues arising from the report of the Group of Legal Experts (A/60/980) were still being discussed, with a focus on elucidating problem areas and considering viable solutions, while the final form of any future instrument on the subject was being treated as a secondary consideration. Her delegation endorsed that approach.

74. The areas considered by the Ad Hoc Committee at its first session touched on fundamental issues relating to the draft convention proposed by the Group of Legal Experts: the scope of application *ratione personae* and *ratione materiae*, the basis and primacy of jurisdiction over the criminal acts identified, and the investigation, custody and prosecution of alleged offenders, with due regard for the need for cooperation among States and between States and the United Nations. Those issues should also be considered in a wider context in the event that a convention was deemed unnecessary.

75. Malaysia's Armed Forces Act 1972 and Police Act 1967 covered Malaysian personnel serving as experts on missions abroad, wherever they were deployed. Malaysia was therefore able to exercise jurisdiction over them. Further, it was Malaysia's view that provision could be made in the deployment authorization document, whether a United Nations status-of-forces agreement or other document, to ensure that those personnel were adequately accountable.

76. Further discussion was required with regard to the scope of the offences for which United Nations staff and experts on mission were to be held accountable. Moreover, the types of acts identified must be duly criminalized in both the host and sending States so as to ensure the possibility of prosecution and of the imposition of comparable penalties on conviction.

77. The procedural and evidential issues considered by the Ad Hoc Committee would also require further deliberation, taking into account the existing legal and procedural requirements of Member States. Therefore, questions of form should be taken up at a later stage if necessary.

78. **Mr. Medrek** (Morocco) said that his country had been a pioneer in contributing to the Organization's efforts to prevent conflict and restore peace and security around the world. It therefore attached great importance to the question of the accountability of United Nations officials and experts on mission. The legitimacy of the United Nations depended largely on the trust it enjoyed. In order to preserve the Organization's credibility and integrity, Member States must combine their efforts to find the most effective way of ensuring accountability for crimes committed by United Nations staff while respecting the principles of due process, human rights and the rule of law.

79. His delegation supported the short-term measures suggested by the Secretariat aimed at addressing the current jurisdictional gap, in particular the adoption of a resolution by the General Assembly urging Member States to establish jurisdiction over their nationals who committed serious crimes as defined in their domestic criminal laws. As for the suggestion to negotiate an international convention on the subject, his delegation felt that, while such a convention could be useful, the discussion was premature, particularly since negotiations would require a considerable commitment of time and resources. For the moment, the debate should focus on questions of substance rather than form.

80. His delegation, like many others, believed that a number of points required clarification: the scope of application *ratione personae* and *ratione materiae*, jurisdictional questions, terminology, questions of immunities and their lifting and the mechanism to ensure the prosecution of alleged offenders.

81. His delegation wondered whether it was appropriate to limit the scope of application *ratione personae* to United Nations personnel and experts participating in a United Nations peacekeeping operation, since the Group of Legal Experts had itself noted the possibility of a broader scope of application to cover officials and experts on mission, where they were present in an official capacity in the area of a United Nations peacekeeping operation. In that connection, military personnel, regardless of whether they were employed by the United Nations as experts on mission, should remain, in principle, solely under the national jurisdiction of the contributing State.

82. With regard to the scope of application *ratione materiae*, his delegation favoured the inclusion not only of crimes involving sexual exploitation but also of crimes such as theft, fraud, money-laundering and torture. Concerning jurisdiction, his delegation reiterated its position in favour of the primacy of the

jurisdiction of the host State. Lastly, with regard to procedure, a number of issues covered by the report of the Group of Legal Experts touched upon the work of other United Nations bodies. In order to avoid duplication, there should be close cooperation and coordination between the Fourth and Sixth Committees, as well as with the Special Committee on Peacekeeping Operations.

83. Crimes committed by persons participating in United Nations operations harmed not only their victims and the host country but also the entire international community. It was to be hoped that the future work of the Ad Hoc Committee would lead to the establishment of an appropriate legal framework for the prosecution of such individuals.

84. **Mr. Donovan** (United States of America) said that the United States regarded abuses by personnel participating in United Nations peacekeeping missions, who were meant to help those in distress in areas in conflict, as a violation of trust. His delegation therefore welcomed the efforts made in recent years to address the problem.

85. His delegation had already expressed its preliminary views on the report of the Group of Legal Experts (A/60/980) at the Ad Hoc Committee's session in April 2007. However, the report left a number of important questions unanswered, particularly in respect of its proposal regarding the possible negotiation of a multilateral convention.

86. The report was based on the assumption that there were theoretical gaps in accountability mechanisms that could preclude accountability for crimes committed by United Nations staff and experts on mission in particular cases. However, more information was needed on what practical problems, if any, were actually arising in efforts to investigate and prosecute crimes committed by those categories of personnel and whether a convention would actually address such problems. During the Ad Hoc Committee's session, his delegation and a number of others had requested additional information on those questions so as to help assess the utility of a convention.

87. Such information was needed because the negotiation of a convention would require significant resources, time and political capital. The United States could not support commencing such an effort without being sure that such a convention was likely to be an effective solution to whatever problems currently existed. A convention might be of some use if the problem to be solved was the lack of a legal basis for States to cooperate with each other in investigating or prosecuting such crimes or for States to prosecute their own nationals for crimes committed abroad. However, the proposed convention would not address other possible barriers to accountability, such as national definitions of crimes such as rape, where it was difficult to prove guilt or to prosecute sexual conduct involving adolescents. Moreover, a convention would be binding only on those States that became parties to it and would therefore have practical value only to the extent that States that were likely to host peacekeeping operations and the States of nationality of relevant staff and experts chose to become parties. His delegation would prefer to address those questions in practical terms, by identifying effective solutions to actual problems, rather than by addressing theoretical gaps for their own sake.

88. Regrettably, the additional information received from the Secretariat after the Ad Hoc Committee's session had not addressed the question of what practical impediments, if any, were actually being encountered in efforts to ensure accountability for crimes committed by United Nations staff and experts on mission. Instead, the Secretariat's note (A/62/329) had taken the unusual form of a paper expressing the "support" of the Secretariat for particular proposals that were the subject of active discussions among Sixth Committee members. In the absence of the necessary information, his delegation did not expect to be in a position during the current discussions to support the negotiation of a convention. Efforts should instead be focused on considering more practical measures to promote accountability for crimes committed by United Nations staff and experts on mission. Such measures might include work on a statement calling on States to take stronger action domestically; work on "model laws" that States could adopt at the national level to address such cases; increased effort by the Secretariat to monitor efforts by States to investigate and prosecute cases; and the naming and shaming of States that failed to take appropriate action.

89. **Ms. Rodríguez de Ortiz** (Bolivarian Republic of Venezuela) said that her country, which had the utmost respect for human rights, attached great importance to the issue of ensuring the criminal accountability of United Nations officials and experts on mission. She welcomed the universal support among delegations for

a zero tolerance policy designed to offer the highest possible level of protection to persons under the direct protection of the United Nations, in particular those who were vulnerable to sexual exploitation and abuse. In addition, the host State should have primacy of jurisdiction, in accordance with the principle of territoriality.

90. In the short term, the Organization's capacity should be strengthened so as to enable it to conduct criminal as well as administrative investigations. Thus, any evidence collected would meet the admissibility requirements of a criminal case conducted in accordance with due process.

91. In the medium and long term, discussions on the relevance of a convention should continue. Irrespective of the decision eventually taken in that regard, work should continue on a number of important matters of substance, including the applicable jurisdiction and the possibility of legal gaps in cases where the individual suspected of committing a crime had departed the mission area; the United Nations officials and experts to be covered; and specification of the crimes to be covered, bearing in mind that the scope of application of a future convention should not be limited to crimes against persons but should extend to all crimes of a serious nature.

92. Efforts to prevent impunity would have the effect of strengthening the Organization's work in respect of the maintenance of international peace and security, thus helping to preserve its image, credibility and impartiality.

93. **Mr. Lamine** (Algeria) said that the privileges and immunities enjoyed by United Nations personnel under the 1946 Convention on the Privileges and Immunities of the United Nations were granted exclusively in the interests of the Organization and not for the personal benefit of staff. The Secretary-General could and indeed should waive immunity where it would prevent justice from being done. It was therefore important for all staff, in the performance of their duties, to preserve the Organization's image, credibility, impartiality and integrity.

94. The aim of the Committee's work in that regard was to put in place an appropriate legal framework to allow for the prosecution of the small number of United Nations officials and experts who committed offences while on mission. His delegation agreed in principle with the proposal of the Group of Legal Experts that an international convention should be drafted for that purpose. However, before such work began, there should be further in-depth discussion of a number of issues such as the scope of application *ratione personae* and *ratione materiae*, jurisdiction, terminology, immunities, the mechanism to ensure the prosecution of alleged offenders and the necessity of ensuring international cooperation, including extradition.

95. Military officers deployed by the United Nations as experts on mission should be excluded from the scope of application of any future instrument. All national law systems applied jurisdiction based on the active personality principle without reservations to that category of persons. Exceptions to that rule would result in the United Nations being deprived of the valuable expertise of military officers.

96. **Mr. Arévalo** (Chile) said that it was vital to uphold consistently the principle that no one was above the law. Crimes that might be committed by United Nations officials and experts on mission were serious in themselves, but the status of the perpetrators was an aggravating circumstance. Persons called upon to protect populations in traumatic situations must honour their responsibilities.

97. A number of jurisdictional gaps impeded the effective exercise of criminal jurisdiction with respect to offences committed by United Nations officials on mission. Primary responsibility in that regard lay with the host State. However, where the host State was not in a position to exercise its jurisdiction, another State or States should be able to take action, in particular the State of nationality of the perpetrator. At the same time, due process and the basic rights of the accused must be respected in such cases.

98. The crimes for which perpetrators could be held accountable should not be limited to those committed against persons, whether of a sexual or other nature. Accountability should extend to all crimes of a certain degree of seriousness committed by officials on mission.

99. The purpose of a future convention would be fulfilled only if an appropriate formula was established for the lifting of the immunity of United Nations officials where a crime was found to have been committed. Any such formula must balance all the interests involved. Preparatory work would be required in order to clarify the content and objectives of a future

convention. Pending the adoption of a convention, his delegation supported the short-term measures set out in document A/62/329 to address the current jurisdictional gap. No instrument or measure consistent with the Charter and international law should be ruled out in efforts to ensure the accountability of officials on mission.

The meeting rose at 1 p.m.

United Nations

A/C.6/62/SR.7

General Assembly

Sixty-second session

Official Records

Distr.: General
31 October 2007

Original: English

Sixth Committee

Summary record of the 7th meeting
Held at Headquarters, New York, on Monday, 15 October 2007, at 3 p.m.

***Chairman*: Mr. Makarowski (Vice-Chairman) .... (Sweden)**

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Agenda item 80: Criminal accountability of United Nations officials and experts on mission (*continued*)

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In the absence of Mr. Tulbure (Moldova), Mr. Makarowski (Sweden), Vice-Chairman, took the Chair.

The meeting was called to order at 3.05 p.m.

Agenda item 80: Criminal accountability of United Nations officials and experts on mission (*continued*) (A/60/980, A/62/54 and A/62/329)

1. **Mr. Muchemi** (Kenya) said that, although peacekeeping was a noble calling that involved considerable sacrifice, a few individuals had engaged in conduct that had adversely affected its reputation. When anyone involved in a United Nations operation committed a crime, it diminished the trust of local communities without which the operation might not receive the necessary cooperation. His delegation welcomed efforts to study and put in place, by consensus and as a matter of urgency, appropriate mechanisms to address existing legal gaps.

2. As one of the main contributors of personnel both military and non-military, for African peacekeeping operations, his Government took a keen interest in the agenda item and urged delegations to demonstrate flexibility and understanding during the negotiations.

3. **Mr. Tarabrin** (Russian Federation) said that the discussions during the first session of the Ad Hoc Committee showed that there were different points of view on how to address the problem of criminal accountability of United Nations officials and experts on mission. The Ad Hoc Committee should continue studying the issue, which hinged on the question of how to fill jurisdictional gaps. His Government was in favour of drafting a convention based on the outcome of that work.

4. Expanding the scope of the proposed legal regime to cover not only peacekeeping personnel but also staff members on mission of any United Nations department, fund, programme or specialized agency deserved consideration. It might even be advisable to include any person acting on behalf of or under instructions from the Organization. However, military observers not part of national contingents had a special status and should not be covered by the proposed regime; the same was true of civilian police.

5. His delegation had no objection to extending the list of criminal acts to cover not only sexual crimes and crimes against persons but also professional misconduct, economic crimes and crimes against property. It was not necessary to list specific crimes: setting criteria based on levels of punishment would be entirely appropriate.

6. There were some problems with the schema whereby the host country automatically had jurisdiction and another country (such as the offender's country of residence) might prosecute the crime only when the host country was unable to do so. Firstly, it could be assumed in the context of most peacekeeping and other operations that the host country's capacity to effectively assert jurisdiction while ensuring proper legal procedures would be questionable. Secondly, persons travelling to a region or country to fulfil an international mission had a special status; guarantees of their rights should be just as important as concern for the victims of crime. That being the case, it was not obvious to his delegation that the jurisdiction of the host country should have priority, in keeping with traditional principles of criminal law. The State of nationality (or State of habitual residence for stateless persons) of either the offender or the victim should play a more prominent role. Furthermore, issues relating to potential conflicts of jurisdiction and the collection and preservation of evidence would have to be resolved.

7. The principle of *aut dedere aut judicare* clearly applied to United Nations officials and experts on mission and required further study. Neither the international courts nor hybrid tribunals should have jurisdiction in criminal cases involving such officials or experts.

8. The Committee should take a cautious approach to the question of whether materials obtained during administrative investigations could be used as evidence in criminal proceedings. Such materials might serve to trigger criminal proceedings or to give a better understanding of events, but actual criminal investigations should remain the prerogative of the State (without precluding the possibility of joint or independent investigations by United Nations investigators under their own mandates). The need to combat crime was no reason to enhance the powers of the Secretariat's administrative divisions.

9. The Secretariat's note (A/62/329) contained a number of useful ideas. Some of the proposed short-term measures could be approved after further work. The Sixth Committee must not, however, interfere with

the work of the Special Committee on Peacekeeping Operations, which dealt with issues relating to military and police peacekeeping personnel.

10. **Mr. Baghaei Hamaneh** (Islamic Republic of Iran) said that his delegation attached great importance to the work of the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission in its effort to promote the rule of law and accountability by identifying measures to bring the perpetrators of sexual exploitation and abuse to justice, thereby safeguarding the integrity and credibility of the Organization. It was incumbent on the United Nations and its Member States to ensure that the reputation of peacekeeping operations and the sacrifices of their personnel were not undermined by the criminal misconduct of a few individuals. Adherence to a zero tolerance policy would require closing the existing jurisdictional gaps so that such crimes could be prosecuted.

11. His delegation welcomed the recommendations made by the Group of Legal Experts established pursuant to General Assembly resolution 59/300 (A/60/980) and the note by the Secretariat on the criminal accountability of United Nations officials and experts on mission (A/62/329). It supported the comprehensive approach adopted by the Group; the proposed mechanisms should apply to the widest possible range of United Nations personnel and staff assigned to peacekeeping operations or working in the mission area, except for national military contingents under the exclusive jurisdiction of the sending States. Furthermore, the new mechanisms should cover not only sexual exploitation and abuse, but other forms of serious criminal misconduct such as theft, corruption, bribery and money-laundering. A combined generic and enumerative approach would be a feasible way of identifying a broad range of crimes that might be perpetrated by United Nations personnel.

12. According to the principle of territoriality, the host State should have the primary jurisdiction over crimes committed by United Nations personnel and staff in the mission area, and its laws should be the primary basis for defining such acts. Although the host State's judicial system might suffer from some deficiencies at the early stages of the post-conflict period, it should be given the opportunity to upgrade its overall capacity to assert jurisdiction and should be assisted in that regard. Other States should also be entitled to establish criminal jurisdiction on the basis of the passive and active personality principles. In order to close any jurisdictional gap, Member States should be required to exercise jurisdiction over alleged offenders who were present in their territory and whom they did not intend to extradite.

13. His delegation noted with interest the proposal to develop a convention comprising all the aforementioned elements as a long-term solution. However, as many States considered such an endeavour to be premature or unnecessary at the current stage, short-term measures should be adopted. All the measures mentioned in section III of the note by the Secretariat had merit; of particular interest, in order to highlight Member States' responsibility to hold their nationals accountable for crimes committed while on mission, were the proposals to include appropriate language in the memorandum of understanding developed between the United Nations and a contributing Member State (para. 24 (b)) and to adopt a General Assembly resolution strongly urging Member States to establish jurisdiction over their nationals who committed serious crimes as defined in their domestic criminal law, where that conduct also constituted a crime under the laws of the host State (para. 21).

14. Criminal accountability of United Nations personnel on peacekeeping missions was a cross-cutting issue related to the whole question of the reform of the Organization. It was high time for the United Nations, with the help of its Member States, to practice what it preached: to promote the rule of law and prevent impunity by holding peacekeeping personnel accountable for their criminal conduct.

15. **Mr. Charles** (Trinidad and Tobago) said that his Government was committed to the principle that no one was above the law and that all individuals should be held accountable for their crimes, committed within their State of origin or elsewhere. As responsible members of the international community, Member States needed to close the jurisdictional gap that made it difficult to bring perpetrators to justice if the host State was unable to prosecute or the State of origin did not extend its criminal jurisdiction to crimes committed by its nationals outside its territory.

16. His delegation found merit in the short-term measures proposed by the Secretariat; the proposal that the General Assembly should adopt a resolution requiring Member States to establish jurisdiction over their nationals who committed an offence that was

established in both their own domestic law and that of the host State was similar to the principle of dual criminality with regard to the obligations of States parties to a bilateral extradition agreement.

17. There was a need for legal certainty in order to establish a common set of rules that would be acceptable to all Member States, whatever their domestic legal system. In the long term, therefore, a comprehensive convention should be elaborated in order to eradicate impunity by covering all crimes committed by United Nations personnel and experts on missions, with the exception of military members of national contingents. Such an instrument would demonstrate the Organization's commitment to the rule of law and strengthen its moral authority at the international level.

18. **Ms. Nworgu** (Nigeria) said that, as a major troop contributor and an active participant in United Nations peacekeeping operations, Nigeria was committed to ensuring that the original intent of the Charter of the United Nations was maintained and that United Nations staff and experts on mission were neither exempt from the consequences of any criminal acts that they committed nor unjustly penalized. She endorsed the zero tolerance policy for addressing any sexual exploitation or abuse by peacekeeping personnel. Impunity, if not stamped out, could become one of the gravest dangers to international peace and security.

19. The host State was the most naturally qualified party to exercise jurisdiction. The crimes were committed in its territory and, in most cases, against its citizens; its laws were the ones that had been broken and the evidence needed for prosecution was available. If special circumstances made the host State unable to exercise jurisdiction, the State of nationality could do so, provided that the relevant requirements, including the enactment of extraterritorial laws and procedures, were met; the United Nations should therefore encourage Member States to enact laws for that purpose.

20. Several legal systems, including that of Nigeria, gave little weight to evidence obtained through an administrative process and could not use it as a basis for criminal investigations. It was therefore necessary to strengthen the Organization's capacity to conduct investigations and collect evidence in a manner that would enhance the likelihood of its subsequent admissibility in national criminal proceedings.

21. In considering extension of the scope of application *ratione materiae* to a broader range of crimes, a distinction should be drawn between crimes committed against the general populace, which attracted the most negative attention and could damage the integrity of the United Nations, and those committed against the Organization itself.

22. Her delegation welcomed the recommendations of the Group of Legal Experts regarding predeployment awareness training and in-mission induction training of peacekeeping personnel, closer coordination among United Nations units in order to ensure that criminal investigations were not compromised, support for victim and witness protection, and mechanisms to ensure that the interests of alleged offenders were protected. It was pleased that a victims assistance policy was under consideration by the Special Committee on Peacekeeping Operations and that standard operating procedures were being developed. The question of the elaboration of a convention should be given further consideration.

23. **Mr. Mikanagi** (Japan) said that, while the discussion in the Ad Hoc Committee had remained at the stage of a preliminary exchange of views, it had been useful in deepening delegations' understanding of the issues. The approach taken by the Secretariat in proposing short- and long-term solutions seemed appropriate. In order to proceed, the Committee needed to examine information on actual crimes committed by United Nations officials and experts on mission and to study the existing legal framework in order to decide what kind of legal system was needed in the longer term.

The meeting rose at 3.40 p.m.